



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 44 of the Convention

Third and fourth periodic reports of States parties due in  
2009

**Austria**<sup>\*</sup>, <sup>\*\*</sup>

[29 September 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

\*\* Annexes can be consulted in the files of the Secretariat.

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## I. Introduction

1. Pursuant to article 44 of the Convention on the Rights of the Child and the concluding observations on the second periodic report concerning the implementation of the Convention (CRC/C/15/Add.251) ) Austria hereby presents the third and fourth periodic reports on measures implementing the Convention in the form of one report (CRC/C/118). The report is in keeping with the revised guidelines for the preparation of State party reports issued by the United Nations Committee on the Rights of the Child (hereinafter referred to as “the Committee”) in June 2005.

2. The report was prepared by the Federal Ministry of Economics, Family and Youth, which in Austria is in charge of coordinating policies concerning the rights of the child. The process included the Federal Ministries whose remits cover the recommendations of the Committee (see page 63) as well as all Länder governments.

3. The present report covers the period from January 2005 to June 2009 and primarily relates to the recommendations made by the Committee in the concluding observations:

(a) In respect of the second periodic report (CRC/C/83/Add.8) on the implementation of the Convention (CRC/C/15/Add.251) of 28 January 2005;

(b) In respect of the initial report (CRC/C/OPAC/AUT/1) on the implementation of the Optional Protocol on the involvement of children in armed conflict: (CRC/C/OPAC/CO/2) of 28 January 2005;

(c) In respect of the initial report (CRC/C/OPSC/AUT/1) on the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography: (CRC/C/OPSC/AUT/CO/1) of 3 October 2008.

4. This is meant to express that Austria pays special attention to these recommendations. However, it should be noted that the Committee’s recommendations (CRC/C/OPSC/AUT/CO/1) have not yet been implemented to the required extent; this was not possible because the Government was in the process of being formed after the parliamentary election of 28 September 2008 when the recommendations were published. The (XXIVth) legislative period of the National Council started on 27 January 2009 and the new Government was in place as from 1 February 2009.

5. Moreover, this report covers all the activities in the period under review considered especially important for the improvement of living conditions of children and youth in Austria. All the facts and measures relevant to the implementation of the Convention already contained in the reports mentioned above will not be dealt with again in the present report (as a consequence, not all the articles and chapters of the Convention will be referred to in this report). Previous reports to the Committee, written comments on additional questions and on the concluding observations which this report relates to have been published at [www.kinderrechte.gv.at/home/service/downloads/monitoring/content.html](http://www.kinderrechte.gv.at/home/service/downloads/monitoring/content.html).

6. As it is the Governments’ sole responsibility to implement the Convention on the Rights of the Child (art. 4) and to report (art. 44) on its implementation, the present report will concentrate on measures taken by the federal government as well as the governments of the Länder (partly in cooperation with their Child and Youth Advocate Offices) within their respective remits. This report will not cover the measures taken by the 2,357 municipalities because a complete picture would require disproportionate efforts and expenditure here. This also applies to the children’s rights activities which NGOs have embarked on within their remits using public funds.

7. In general, this report does not claim to be complete because the scopes of Länder government reports varied widely and because many political decisions are relevant to the rights of the child without being expressly described as such. Many activities, primarily in the fields of leisure, education and culture, were not mentioned although they contribute much to a stimulating environment for children in all of Austria.

8. To enable the civil-society organizations represented in the *Kinderrechtenetzwerk* (National Coalition – NC) to draw up their scheduled alternative report to the Committee based on the information in this report, the present report is made available to the NC as it is submitted to the United Nations.

9. Data and statistics on Convention-related topics, resolutions of the Austrian Council of Ministers, as well as literature containing additional information can be found in the Annex. The laws referred to can be read via the Legal Information System of the Federal Chancellery (RIS) at [www.ris.bka.gv.at](http://www.ris.bka.gv.at).

10. During the period under review, Austria made her best efforts to improve the status of children in our society and their living conditions in a wide variety of ways, and to raise awareness for children's rights. Those responsible know that, to conform with the principles of the Convention, the task of consistently working for the benefit of the children in our country and of finding appropriate responses to the many new challenges is never over.

## **II. General implementation measures (arts. 4, 42 and 44, para. 6)**

### **A. Previous recommendations of the Committee**

11. The Committee urges the federal government to make every effort to address those recommendations in the concluding observations on the initial report (see CRC/C/15/Add.98) that have not yet been implemented. Specifically, the following issues were highlighted: reservations, coordination mechanism, international cooperation and juvenile justice (CRC/C/15/Add.251, paras. 4–5).

12. The present report will comment on this in the related chapters.

### **B. Reservations**

13. The Committee recommends that the State party reconsider the need for maintaining the existing reservations to articles 13, 15 and 17 and continue and complete its review with a view to withdraw them in line with the Vienna Declaration (CRC/C/15/Add.251, paras 6–7).

14. In addition to what was said in the second periodic report (para. 26), it is pointed out that the supranational protection of rights by an institution with tribunal character is safeguarded under the European Convention on Human Rights (ECHR), which in decisions relating to the rights of the child is in keeping with other relevant international obligations. The reservations to the Convention aim at ensuring coherence of international and regional human rights protection. So far, practical experience has not produced any instance whereby the rights granted under the Convention would have been curtailed due to the reservations.

### C. Legislation

15. The Committee recommends that the State party continue and strengthen its efforts to incorporate the rights of the child in the Constitution both at Federal and Länder level, and take all necessary measures to ensure that its domestic legislation fully conforms to the principles and provisions of the Convention, in particular to its articles 10, 20 and 22 (family reunification, unaccompanied minor refugees) (CRC/C/15/Add.251, paras 8–9).

16. The incorporation of the rights of the child in the federal constitution was called for by the Child and Youth Advocate Offices as well as numerous organizations in the past few years and subsequently, it was discussed in the relevant bodies in depth. The Board of the Austrian Constitutional Convention deliberating from May 2003 to January 2005 reached consensus on the incorporation of certain rights of the child in a new list of fundamental rights as human rights (see report of the Austrian Constitutional Convention, vol. 1, part 3, pp. 86 and 88; vol. 2, part 4A, p. 36 ff). However, no political agreement was subsequently reached on a new list of fundamental human rights, neither in the Austrian Constitutional Convention nor in the Special Committee for preliminary deliberations on the report of the Austrian Constitutional Convention which was established during the XXII<sup>nd</sup> legislative period. The same applied to the expert group on the reform of state and administration which was created in the Federal Chancellery during the XXIII<sup>rd</sup> legislative period. The current Government programme (XXIV<sup>th</sup> LP) foresees the incorporation of the rights of the child under the Convention in the Federal Constitution but at this point, the required two-third majority has not been obtained yet.

17. Based on EU legislation — Directive 86/2003/EC — the provisions concerning family reunification were revised and restated in the Federal Act on Settlement and Residence in Austria (*Niederlassungs- und Aufenthaltsgesetz*- NAG) which has been in force since 1 January 2006; details will be contained in chapter VI (recommendation No. 35–36).

18. As already stated in previous reports, individual Länder have enshrined the rights of the child in their constitutions. Moreover, the rights of the child were strengthened in many ways in Länder legislation.

19. For example, the Land of Vorarlberg introduced a provision in 2007 whereby the explanatory notes of all legislation adopted in the Land have to deal with the consequences of the laws for children and youth. In the period under review, some Länder e.g. passed legislation on playgrounds so as to make sure that public spaces are available for children to play in. In addition to the provisions on playgrounds in the building code, Vorarlberg even decided in its law on spaces for play (14 April 2009) that children should be involved in the planning of propositions for such spaces. In Vorarlberg the project “Kindergerechte Lebens-räume” (“Environments suited for children”) carried out by the *Institut für Sozialdienste* (“Institute for Social Services”) within the initiative “Kinder in die Mitte” (“A Focus on Children”) was included in the process, bringing experts, parents and children together in planning phases. For further information please visit: <http://www.ifs.at/kindergerechtelebensraeume.html>.

### D. Coordination and evaluation

20. The Committee recommends that the State party undertake all measures to ensure the establishment of a permanent and effective coordination mechanism on the rights of the child at Federal and Länder level, also facilitating active involvement of children and youth, and that sufficient financial and human resources are allocated for the effective functioning of such a mechanism (CRC/C/15/Add.251, paras. 10–11).

21. If it is to take the shape of an organizational unit with comprehensive powers, the coordination mechanism proposed by the Committee is alien to the Austrian constitutional system. Since numerous issues relevant to the rights of the child are assigned to the federal level or the Länder for legislation and enforcement, specific policy areas fall into the remits of several ministries, various departments of the nine Länder governments as well as of the 2,357 municipalities, some of which are major cities where there is a division of labour among several divisions. A permanent coordination mechanism for the cross-cutting matter “the rights of the child” would require the involvement of the regional and local administrative bodies and numerous NGOs, which is not possible in practice and would not be efficient either.

22. The federal government is aware of the need for a continuous and coordinated dialogue. Apart from the established structures which ensure that the interests of all regional and local administrative bodies and relevant NGOs (including the Austrian Federal Youth Representative Council – *Bundesjugendvertretung*) can be heard (as they are given the opportunity to comment in writing), various bodies for the exchange of information and discussion bringing together politicians in charge of related matters at the federal and Länder levels are in place to harmonize executive tasks and coordinate future policies (e.g. the conferences of Länder governors, and of Länder case managers in charge of financial, social, youth and family law matters). The Youth Welfare Working Group (ARGE *Jugendwohlfahrt*) is also a case in point: in this body, the senior civil servants and social workers of the Länder and statutory towns and cities, as well as a representative of the Family Ministry and the Ministry of Justice meet regularly, so it is yet another important coordination instrument for issues relevant to the rights of the child. The federal state and the Länder also enter into agreements under article 15a of the Austrian Constitution on special issues (e.g. childcare) to ensure, in a legally binding way, harmonized law-making at the two levels.

23. In law-making and the development of structural measures, the organizations which are concerned by the issue at stake due to their tasks and are thus able to contribute their expertise, will as a rule be consulted.

24. Furthermore, the “Youth Ministry” is in charge of coordinating tasks in matters concerning the rights of the child. For example, when the national plan of action for the rights of children and youth (Young Rights Action Plan – YAP), contacts for issues of the rights of the child were nominated in all ministries, and representatives of the Länder were named. This network followed the implementation of the YAP through as an inter-institutional working group (including NGOs). Moreover, a working party on the sale of children and one on sexual exploitation was established; these will be presented in the related chapter (CRC/C/OPSC/AUT/CO/1, paras. 10–11).

25. At the Länder level, matters concerning the rights of the child are also dealt with in a cooperative and interdepartmental way. For example, the *Burgenland*, has reported that the government of the Land engages with matters concerning the rights of the child across the remits of departments and also considers it a matter to be decided at the highest level. This way, a structure of cooperation between the administration at the level of the Land and the municipalities as well as NGOs is in place, and the activities of the Child and Youth Advocate Office is highly appreciated.

## **E. National action plan – YAP**

26. The Committee recommends that the YAP be finally approved by the Parliament and that the State party ensure that sufficient human and financial resources are timely allocated for its effective implementation and that it promotes and facilitates an active involvement of children and youth, parents and other interested relevant bodies. It further

recommends that the State party develop indicators for monitoring and evaluating the plan (CRC/C/15/Add.251, paras. 12–13).

27. The federal government took up the obligation assumed at the United Nations General Assembly Special Session on Children (“World Summit for Children 2002”) and developed a national plan of action (Young Rights Action Plan – YAP) for the further implementation of the Convention. The YAP was prepared in a comprehensive consultation process which also involved children and youth and was approved by the Council of Ministers on 23 November 2004. It contained 200 measures which were largely implemented in the following three years. The implementation report was approved by the Council of Ministers on 21 November 2007 (submission to the Council of Ministers, 34/23). Throughout the period, meetings of the accompanying working group took place, discussing individual measures. This process made a lasting contribution to disseminating information about the rights of the child and general awareness.

28. The YAP was sent to all ministries, government of the Länder, parliamentary clubs, parties, the Association of Austrian Cities and Towns (*Städte- und Gemeindebund*) and the NGOs organized in the National Coalition. It was also published on the websites of the Ministry for Family and Youth. This way, the YAP reached a political and general public, and policies concerning the rights of the child gained a higher profile.

29. To be able to judge living conditions in Austria and assess the effectiveness of measures, we will review these regularly in thematic evaluations based on appropriate indicators. To name but a few examples, such evaluations could deal with education, labour market (youth employment) and social affairs. The effectiveness of benefits under family policies when it comes to preventing child poverty is regularly reviewed under the social reporting mechanism. When preparing action plans (e.g. NAP – Trafficking in Human Beings), appropriate indicators are used.

30. Representatives of the federal government have collaborated in international projects which develop indicators for reviewing the effectiveness of policy measures. For example, support was given to the activities of the European Commission in the identification of Social Indicators with a special focus on children, and these were further discussed at national level in the context of the Strategic Report on Social Protection. It has been contemplated to check the applicability of the Indicators for the Well-Being of Children and Rights of the Child developed by the European Fundamental Rights Agency (FRA) in specific policy areas at national level.

## **F. International cooperation**

31. In the light of its previous recommendations (CRC/C/125/Add.98, para. 12,) the Committee recommends that the State party continue and strengthen its activities in the area of international cooperation and increase its official development assistance to 0.7 per cent of its GDP, as recommended by the United Nations, with special consideration of child rights focus in programmes and projects (CRC/C/15/Add.251, paras. 14–15).

32. Austria’s development assistance from public funds (ODA) already surpassed the threshold of 0.33 per cent in 2005. In the following years, the objective was also achieved and even exceeded, as the percentage of GDP was 0.42 per cent in 2008 (forecast report to OECD-DAC). Austria continues to aim for the international objective of 0.7 per cent.

33. Pursuant to section 1, paragraph 4, subparagraph 4 of the Austrian Development Cooperation Act (EZA-Gesetz), the needs of children have to be taken into account in Austrian development policies in a meaningful way. The Austrian Development Agency ADA considers the rights of the child as a cross-cutting issue to be included in project planning and implementation. All activities are to include the materialization of child



rights, and in doing so, ADA follows six principles: children are perceived as partners; their expertise is appreciated; children are not a homogeneous group so that distinctions need to be drawn according to age, gender etc.; information gathering and analysis are child-sensitive; children are actively involved in project implementation; mainstreaming of child rights pursued in that child rights are part and parcel of the processes as a cross-cutting issue; and the ADA follows a “rights based approach”.

34. Since the periodic report of 2005 children have benefited from these principles in several projects. In Ruanda the project “Farmers of the Future” involved school-age children in an extensive natural resource management project (1 January 2006 to 30 June 2009). In Moldova the ADA supported a child and youth protection programme for underprivileged children and youth. Inter alia, the project objectives included repair work on buildings, assistance to alternative child and youth welfare and the establishment of networks bringing together the civil society and public authorities to support children and youth (1 September 2004 to 31 August 2007). In Uganda, Austria provides assistance to the Legal Aid Basket Fund, which amongst other things also covers juvenile penal law and legal aid for children and youth (1 January 2007 to 31 December 2008).

35. Moreover, Austria supports UNICEF, most recently paying a contribution of 2.7 million euros (2007), which is an increase of 16.6 per cent over the previous year. Apart from contributing to the core budget of the organization, Austria also supported the fight against poliomyelitis in Ethiopia and against genital mutilation in Burkina Faso, and helped fund Junior Professional Officers in three UNICEF country offices and the subsistence of Iraqi minors living in Syria as refugees.

## **G. Data collection**

36. The Committee recommends that the State party strengthen its efforts to develop a system for a comprehensive collection of comparative data on the convention. This data should cover all children below the age of 18 years and be disaggregated, with specific emphasis on vulnerable groups, including refugee and asylum-seeking children (CRC/C/15/Add.251, paras. 16–17; see also CRC/C/OPSC/AUT/CO/1, paras. 6–7).

37. In Austria data is collected in a number of fields relevant to the right of the child. Statistik Austria, the Austrian statistics institution, published disaggregated data on the population, labour market/youth employment, education/culture, health and social affairs on a regular basis ([www.statistik.at](http://www.statistik.at)).

38. Information reflecting the living conditions of children in Austria are also compiled regularly in the framework of international surveys: there are surveys on the social situation (EU-SILC), health (HBSC, [the WHO Survey on Health Behaviour in School-Age Children]; the ESPAD survey [“The European School Survey Project on Alcohol and Other Drugs”]; GPS [General Population Survey – including i.e. data on the use of narcotic drugs]); education (PISA, PIRLS, TIMS; National Education Report 2009), which are each published by the ministry in charge. The tasks of the Federal Institute for Educational Research, Innovation and Development (Bundesinstitut für Bildungsforschung, Innovation und Entwicklung – BIFIE), an institution of the Ministry of Education also include an evaluation of the educational sector.

39. Every 10 years, the Ministry for Family and Youth commissions and publishes a report on the situation of families, which also describes the living conditions of children. The fifth report of this kind will be published in the fall of 2009. A youth report is prepared during each legislative period, always focusing on a different central topic. The fifth report on the State of Youth in Austria (2007) deals with issues of gender mainstreaming and gender-sensitive approaches in extra-curricular youth work in Austria. The family and

youth reports are discussed in parliament. Moreover, research on specific issues concerning the living conditions of children is commissioned. For example, the Family Ministry commissioned a survey entitled “The Family Through the Eyes of Children” (“Familie aus Kindersicht”), to explore i.e. participatory potential for children up to the age of 10 in the family and time spent together. The survey is to look into the findings in UNICEF Report Card 7 according to which children in Austria are said to spend too little time with their families (based on PISA data).

40. Every two years, the Ministry of Social Affairs publishes the Social Report which devotes one chapter to the social situation of children in Austria. Furthermore, the Ministry also issued the second “Report of the Federal Government on the Situation of People with Disabilities” in 2008 (the first report dating from 2003); it focuses on the integration of people with disabilities in the labour market.

41. The Ministry of Justice is working on improving the general data available for justice-related statistics, with the aim to create general statistics on the management of judicial cases which contains all responses of the State to criminal behaviour, to be collected and mapped out in a standardized way. Likewise, these statistics should introduce general statistical data on recidivism, including all judicially relevant decisions (see also CRC/C/OPSC/AUT/CO/1, paras. 6–7).

42. In the framework of the Statistical 5-Year Programme 2008–2012 of the European Commission and the EU Action Plan based on it, Austria is also working on the development of a comprehensive and coherent strategy to measure crime and criminal prosecution, and on a method standardized EU-wide to collect indicators on trafficking in human beings. In this context, Austria’s second National Action Plan on the Fight against Trafficking in Human Beings for 2009–2011 envisages an improved database and the collection of disaggregated data as well as of information on punishable acts and modes of operation in human trafficking.

43. In Austria, asylum applications of unaccompanied minor aliens are listed in official statistics broken down according to the age groups “Under 14” and “Under 18”.

44. In the *Länder* data is still based on a variety of indicators whilst data collection and publication is done by different institutions and according to differing methods. The *Burgenland* is currently establishing an internal knowledge management database for quality assurance and enhanced effectiveness and efficiency in social work. In 2005 a report was published on the state of youth in the Burgenland.

## **H. Dissemination of the Convention**

45. The Committee recommends that the State party pursue its efforts to make the provisions and principles of the Convention widely known and understood by adults and children. The Committee also encourages that the State party undertake a systematic education and training programme on the principles and provisions of the Convention of children, parents and all professional groups working for and with children. It further recommends that the State party include child’s rights in various pre-service and in-service trainings for those targeted groups (CRC/C/15/Add.251, paras. 18–19).

46. As the implementation of the Convention and subsequently a society fit for children is not least a matter of awareness, the governmental bodies in charge subscribe to the Committee’s recommendation of making the principles and provisions of the Convention known to the public at large. For example, the federal ministries in charge of youth and education as well as the Child and Youth Advocate Offices of the *Länder* ([www.kija.at](http://www.kija.at)) engaged in widely perceived public relations work concerning the rights of children and youth.

47. As 75 per cent of youth stated that they prefer being informed about the rights via the Internet and also find the Internet most readily accessible (*Eurobarometer: The rights of the child*, 2008; Ministry for Generations, Family and Youth/Market survey 2007), the Ministry for Youth set up a website specifically for the purpose ([www.kinderrechte.gv.at](http://www.kinderrechte.gv.at)); this is where the provisions and principles of the Convention are communicated in a way easily understood by a large number of users. A monthly newsletter service is primarily addressed at multipliers (currently around 530). Links to websites of various educational institutions, especially nursery schools, primary schools and educational institutions training nursery schoolteachers and social workers, medical facilities and other multipliers (presently about 250) register about 6,000 hits per month in respect of the wide variety of information offered on child rights' issues.

48. The brochure "The Rights of Children and Youth" ("Die Rechte von Kindern und Jugendlichen") is i.a. being used for the purpose of awareness-raising in schools (so far 20,000 copies have been distributed). In the past four years, the Youth Ministry has invited schools to join in a drawing competition which deals with children's rights in a creative way.

49. In 2008 the Ministry of Justice offered four continuing education events on children's rights for judges and public prosecutors, as well as for part of the candidate judges. Four events on fundamental rights were specifically organized for candidate judges in 2008. 2009 has already seen three related continuing education events for judges and public prosecutors, another nine are scheduled for the same year. A total of four more continuing education events are planned to be held for candidate judges in 2009.

50. The Ministry of Education publishes a wide variety of information material on the rights of the child. The monthly publication *polis aktuell* offered by the "Zentrum polis" educational centre in a digital and a printed version develops material on children's rights especially for use by teachers; the special edition of November 2009 will exclusively be devoted to the rights of the child. A list of recommended political children's books which are gender-sensitive and serve the democratization of gender relations is available to primary schoolteachers for use in school (Recommendations for children aged 5 to 10, published by Zentrum polis, 2007).

51. Moreover, Zentrum polis was instructed by the Ministry of Education to provide free *educational material* on children's rights for use in school: such material includes the Youth Ministry's brochure on the rights of children and youth; children's rights postcards; KOMPASS – Handbuch zur Menschen-rechtsbildung für die schulische und außerschulische Bildungsarbeit (a manual on human rights education in school and extra-curricular education, ed. Deutsches Institut für Menschenrechte, Bundeszentrale für politische Bildung, Europäisches Jugendzentrum Budapest, 2005). The manual "Understanding Human Rights" ("Menschenrechte verstehen") consists of 14 modules which comprise information on the most essential human rights and how to teach and learn about them. The German version of COMPASITO, the "Manual on Human Rights Education for Children" will be available for education on children's rights as from November 2009.

52. The following *Internet resources* of the Ministry of Education deal with information on the rights of the child: [www.politik-lernen.at](http://www.politik-lernen.at); [www.politische-bilduna.at](http://www.politische-bilduna.at) with special themed dossiers i.a. on children's rights, violence in school, conflict resolution and mediation, and youth unemployment; every year in November, [www.schule.at](http://www.schule.at) looks at children's rights as "the theme of the week"; [www.politik-lexikon.at](http://www.politik-lexikon.at) contains keywords relevant to children's rights. The lexicon was made available to schools in the form of a book for all pupils as from the 5th year of schooling in 2008.

53. *Continuing education and further training:* Zentrum polis offers regular continuing education for teachers (e.g. in cooperation with the Pedagogic Academies, such events being credited as obligatory in-house continuing education days for teachers, and within the workshop series “Everybody is in the right?!” (“Recht hat jedeR?!”). The topic of children’s rights is either treated as a focus or part of the issues dealt with in continuing education events. Since 2005 the Department of Economic and Social History at Vienna University has offered a special unit on children’s rights in the “Education for democratic citizenship” class for candidate teachers. The module Human Rights – Fundamental Rights of the non-degree programme “Education for democratic citizenship” had a focus on the rights of the child (2005 and 2007).

54. *Workshops with children and youth* are also organized: “Everybody is in the right?!” (“Recht hat jede(r)?!”) is training that helps young people engage with one another in every day life. It is a series of workshops for entire school classes composed of the following modules: “No boundaries?” (“grenzen:los?”), which is about feeling one’s own limits and boundaries between oneself and others, the ability to articulate one’s needs without marginalizing others, the recognition of fellow humans’ freedoms and rights without having to forego one’s own; “Fighting for togetherness” (“z’samstreiten”) about learning ways to argue with each other in the right way – with awareness and respect; “Respect to you” (“Alle Achtung”) – appreciation, (self-) respect and consideration for the needs and feelings of others; “We are in a class by ourselves?!” (“Wir sind Klasse?!”) about ways to strengthen a sense of cooperation and community within the class.

55. The Federal Ministry of Education is also engaged in PR work and awareness-raising as well as networking, as it presents offerings concerning children’s rights at events and fairs such as the annual Interpädagogica (Austrian education fair); Zentrum polis is part of the Netzwerk Kinderrechte Österreich – National Coalition (NC) which at present brings together 27 member organizations regularly in regular meetings; the expertise of Zentrum polis is used in ongoing educational work concerning the implementation of the Convention in Austria. During the Human Rights Days of 2005 Zentrum polis (then still named “Servicestelle Menschenrechtsbildung” – “Human Rights Education Service”) organized a matinée on the rights of the child with Martin Auer and Erich Schleyer, both authors of children’s books (20 November 2005). Zentrum polis also supports the children’s rights drawing competition of the Youth Ministry by advertising, advice to teachers and nominating a member of the jury. The newsletter published bimonthly by Zentrum polis also contains regular announcements of educational offerings on children’s rights. Zentrum polis also acts as an adviser to teachers and other multipliers in children and youth work when it comes to planning and carrying out tuition units and projects, it provides free material and helps find trainers and speakers.

56. Children’s rights at *Pädagogische Hochschulen* – PH (Pedagogical Academies): The Convention on the Rights of the Child is not expressly mentioned in the curricula of training and continuing education at Pedagogical Academies but is contained in their context. The notion “rights of the child” even stated in several curricula, for example at the PH Kärnten (programmes for primary schoolteachers, lower secondary schoolteachers and special schoolteachers in Carinthia) and the PH Tirol (teacher training in the Tyrol). Moreover, several Pedagogical Academies disseminate information on the Convention e.g. via their websites, special documentation, brochures, leaflets etc.). The annex lists the projects of Pedagogical Academies where future educators are familiarized with children’s rights.

57. Children’s rights were also incorporated in the federal curriculum for the training of parent educators. The parental education website of the Family Ministry at [www.elternbildung.at](http://www.elternbildung.at) shows that children’s rights are a notion central for families and the upbringing of children, and their relevancy in every day life is explained in many articles.

58. The dissemination of the Convention is part of the primary tasks of the Child and Youth Advocate Offices (“Kinder- und Jugendanwaltschaften – KiJA”) as defined in the youth welfare laws of the Länder and financed by the Länder. Although there is no separate standardized and systematic education and training programme for children’s rights, the great diversity of awareness-raising activities of the KiJA for children, youth and adults reflect the efforts of making the notion of children’s rights a fixture in Austrian life.

### Activities of the Länder

59. *Upper Austria*: Offerings are mainly addressed to children and youth between the ages of 6 and 18; target groups are primarily reached via multipliers. Out of many events and projects of the KiJA Upper Austria, the following examples should be mentioned.

60. The Upper Austrian children’s rights magazine “*Alles, was Recht ist*” (“All things right”) is published three times a year with a circulation of 50,000 copies. Special children’s rights (e.g. the right to health, protection from violence, the right to both parents etc.) are explained and documented in a way suitable for a certain age group (primary school, lower secondary, upper secondary school).

61. *www.kiia-ooe.at*: The website is an important platform for communicating information on children’s rights for youth. The age group of 12 years and over uses its computer literacy to find answers or help in difficult situations.

62. *KiJA@school*: Educators can also obtain material and support from KiJA Upper Austria so they are able to thematize the rights of the child and the contents of the Convention in school. KiJA Upper Austria also offers so-called “Children’s Rights Workshops” to explain specific concerns in greater detail and enable the application of information in practice by comparing it with the experiences of pupils. This is where children and youth will be able to find out what children’s rights mean in their every day life.

63. *Children’s rights parties and prizes*: Once a year, the children’s rights party and the children’s musical composed for the purpose and entitled “Children have rights, don’t they?” (“Kinder haben Rechte, oder ...?”) is organized. The party also formed the backdrop for the first awarding of the Upper Austrian Child Protection Prize of 2008.

64. *KiJA on Tour*: KiJA Upper Austria also tours the Land on a regular basis to inform children and youth of their rights. The series of events have so far focused on the right to both parents (separation and divorce), and the right to health (addictions). A play, a musical, workshops, materials for use in school and continuing education for pedagogues serve to communicate the issues in a way fit for each age and target. The tours regularly reach out to several thousand children and young people.

65. *Tyrol*: The Child and Youth Advocate Office organizes awareness-raising activities to inform children, youth and adults (annual children’s party, painting activities, workshops in schools, preparation and dissemination of brochures and teaching aids, PR work, website etc.). The formation of the “Children’s Rights Platform for the Tyrol” (“Plattform Kinderrechte Tirol”) which brings together the Child and Youth Advocate Office as well as the associations “Friends of Children” (“Kinderfreunde”) and “Friends of Nature” (“Naturfreunde”) reflects regional efforts for a big profile of the Convention.

66. In the *Burgenland* social workers are familiarized with children’s rights and it is ensured that they are aware of these rights even though no specific training on the Convention is provided for social workers.

### III. Definition of the child

67. What was stated in chapter 4, paragraphs 72–117, of the second periodic report continues to apply, with the only change being the lowering of the voting age for Austrians. All men and women who are Austrian nationals and 16 years of age and over on the day of the election are entitled to vote in elections for the Federal President, National Council (lower house of parliament), Länder diets, municipal councils and for the office of mayor as well as the European Parliament, unless they have been excluded from voting (section 21, paragraph 1; Act amending the Austrian Electoral Law/*Wahlrechtsänderungsgesetz 2007*). Austrians who are 18 years of age and over are entitled to stand for elections (if they wish to stand for Federal President, they have to be 35 and over) (for further information, please see chapter IV, article 12 referring to CRC/C/15/Add.251, paras. 25–26).

### IV. General principles (arts. 2, 3, 6 and 12)

#### A. Non-discrimination

68. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against children belonging to vulnerable groups. Measures and programmes should follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Committee's general comment No. 1 on article 29, paragraph 1 of the Convention (aims of education) (CRC/C/15/Add.251, paras. 20–24).

69. The Federal Constitutional Act of 3 July 1973 for the implementation of the International Convention on the Elimination of Racial Discrimination (Federal Law Gazette No. 390/1973) prohibits any type of racial discrimination to the extent that has not already been prohibited in article 7 of the Federal Constitutional Act of 1929 and article 14 of the Convention on the Protection of Human Rights and Fundamental Freedoms. The legislative and executive branches must not discriminate against anyone on the sole grounds of race, colour, descent or national or ethnic origin.

70. Under article III, paragraph 1, subparagraphs 3 and 4 of the Act Introducing the Administrative Procedure Acts ("*Einführungsgesetz zu den Verwaltungsverfahrensgesetzen 2008 – EGVG*", Federal Law Gazette I No. 87), anyone who discriminates against persons on the sole grounds of race, colour, national or ethnic origin, religious denomination or disability commits an administrative offence and is liable to be fined. The same applies if persons are prevented from entering places or using services meant to be generally accessible to the public on these grounds, or if National-Socialist ideas within the meaning of the Prohibition Act ("*Verbotsgesetz*", State Law Gazette No. 13/1945, as amended by the Constitutional Act in Federal Law Gazette No. 25/1947) are disseminated; in the case of disseminating national-socialist ideas, even the attempt is penalized.

71. In 2003, the Law Enforcement Academy of the Federal Ministry of the Interior ("*Sicherheitsakademie des Bundesministeriums für Inneres – SIAK*") developed the structural concept "Human Rights Education" to enforce the legal provisions. The concept considers the attainment of the objectives aimed for as a continuous process of organizational development. The manual "Human Rights and the Police" ("*Handbuch*

Menschenrechte und Polizei 2005”), which is available to all law enforcement officers in electronic form and as a download on the Ministry’s Intranet, aims at giving law enforcement a public profile as an organization protecting human rights.

72. In continuing education and training for Austrian law enforcement officers and administrative personnel in the field of law enforcement much attention is given to issues of human rights and related fields which are dealt with across a wide range of contents.

73. Ongoing evaluation serves the purposes of quality assurance and optimized contents; the theoretical framework is defined by a systemic approach, interdisciplinary work, and the combination of legal subjects with human rights issues.

74. In teacher training (university-level courses), teachers working for the law enforcement academies are taught to convey purely law-related information as well as to educate their students in human rights. Continuing education is obligatory for teachers and in this context, it is ensured that teachers of legal subjects also take part and are involved in seminars on human rights, ethics, social studies, policing in a multicultural society, being an alien in Austria, dealing with marginal groups, law enforcement and the Holocaust etc. This is to safeguard the sensitization of teachers in law enforcement training centres to human rights issues, enabling them to make connections between human rights and their special fields.

75. In the basic training of law enforcement officers, human rights issues are currently contained in the following subjects as well, as in interdisciplinary work: Communication and Conflict Management, Human Rights, Professional Ethics, Applied Psychology, Social Studies, and the ADL seminar “A World Of Difference”. Additionally, these values are filled with life in day-to-day tuition by full-time staff teaching other subjects so that they become an essential element of training.

76. The regular evaluation of continuing education ensures that these attitudes are and remain engrained in the minds of teaching staff. In 2009 the full-time faculty is offered workshops or continuing education seminars on human rights education.

77. All officers doing their basic training are further sensitized in respect of the way they approach people as they visit memorials, mosques etc. and attend events organized by NGOs prepared, carried out and followed up on by specially trained coaches.

78. The seminars entitled “A World Of Difference”, which have been organized in cooperation with the Anti-Defamation League since 2002, are an important part of continuing education in human rights. Attendees come from all areas of law enforcement in all of Austria. The large number of participants ensures that the groups are highly representative of all age groups. The “AWOD” seminars are also an obligatory part of basic training, which guarantees a uniform standard of training within the entire organization. The essential elements in this training course are empathy and understanding for people and their living environments. Interactive work, individually or in groups, role play, case analyses, films and strategic games help develop model solutions and alternative behaviour.

79. Based on a proposal from the Human Rights Advisory Council, the seminars were extended to three days and the subject “Linguistic usage in law enforcement” was added to the curriculum in 2007. Since 2008 the seminars also cover the issue of “hate crimes”. Those staff members who attended two-day seminars before 2007 will be offered follow-up seminars as from 2009 so they can be kept abreast of new contents.

80. A considerable part of other continuing education events offered by the Law Enforcement Academy is also devoted to human rights-related topics. The following list is by no means complete: “Policing in a multi-cultural society”, “Fair and sensitive – Police and Sub-Saharan Africans”, “Intercultural guides in Austria”, “Course on Intercultural

Conflict Management” (in cooperation with the Austrian Integration Fund), “Dealing with People of Various Ethnic Origins”.

81. Every year, the Law Enforcement Academy determines temporary focal themes, selecting “human rights and professional ethics in police work” several times in the past few years. “Corporate culture, human rights, intercultural competence – an expression of respect and appreciation on the inside and the outside” was defined as the focus for the years 2009 to 2011; thus, human rights are a regular element of continuing education and training.

82. In the years 2009–2010 staff of police arrest centres will be given special training in “approaches to people with different cultural backgrounds”; this will include information on the religions, histories and customs of various ethnic communities.

83. In the framework of themed years such as the “European Year of Equal Opportunities for All” (2007) or the “European Year of Intercultural Dialogue” (2008), the Ministry of Education dealt with issues of non-discrimination and also devoted the Education for Democratic Citizenship Action Days to the respective focal topic.

84. The best possible degree of integrating migrants is an important element in the fight against discrimination. For this reason, the Federal Government is bundling its integration policy measures and initiatives in the National Action Plan for Integration. The Action Plan is coordinated by the Ministry of the Interior based on the expertise of the Integration Platform and it is executed at all political levels by the regional and local administrative bodies and the relevant NGOs. The “Introductory Paper of 2009” refers to core issues of integration policy and aims to ensure continuity in the integration-related policy initiatives of the Federal Government put in place so far.

85. The Federal Disability Equality Act (“Bundes-Behinderten-gleichstellungsgesetz – BGStG”; Federal Law Gazette I No. 82/2005; effective as from 1 January 2006) is to counteract discrimination against people with disabilities. Children with disabilities as well as their families benefit from this law. The Federal Ministry has given the school authorities in charge a number of practicable tools to identify cases where support for children with special needs is required so that such support can be geared to individual cases for the purpose of integrating children with disabilities in regular schools (RS No. 19/2008). Moreover, the school authorities of the Länder were given guidelines for quality standards in so-called “integration classes” (RS No. 18/2008). An inter-ministerial working group is currently preparing a proposal for legislation to continue the integration of children with disabilities in secondary education at level II (starting with the 9th year of schooling), which is included in the government programme; the proposal for such integration — which is expected to take the shape of pilot projects first — will be submitted to political decision makers shortly.

86. The Acts on Equal Treatment in Employment in the Federal Public Service and in Private Business Operations (“Bundes-Gleichbehandlungsgesetz (Dienstverhältnisse zum Bund)” and “Gleichbehandlungsgesetz – für die Privatwirtschaft”) i.a. prohibit inequality on account of age in employment or training. There are separate Equal Treatment Acts of the Länder which govern employment and training at the level of the Länder. A special website has been set up for young people; it contains the results of reviews for their age group and it is to contribute to disseminating information and sensitization.

#### **Non-discrimination measures in the Länder**

87. *Upper Austria:* The population of Upper Austria includes persons from 153 nations (2001 census); 183,614, i.e. 13.1 per cent of the Upper Austrian population, come from a migrant background (Statistics Austria, 1 January 2007). In 2005 work on drawing up a mission statement for integration in Upper Austria began, aiming at drawing a benefit from



diversity and ensuring that integration is an opportunity for society. A comprehensive participatory process started, and recommendations for measures to strengthen the positive basic attitude of Upper Austrians and their local communities were developed; these should provide support in the fulfilment of integration tasks.

88. The following recommended measures in the mission statement for integration are relevant for children and youth: *Fields of Action Language, Upbringing, Education, School*. In this context, offerings to promote language acquisition in the school year 2006/07 included a total of 831 hours of tuition provided by 42 teachers speaking the mother tongues of non-German speaking children and youth; involvement of the parents is stepped up to make sure that children learn German early on; the early promotion of language skills is to be fostered by closer cooperation between nursery schools and primary schools.

89. *Training, labour market, business*: To counteract the special difficulties which first and second generation migrant youth are faced with on the labour market, low threshold work coaching, enhanced support in vocational guidance based on demand, and targeted assistance by improved knowledge of German should be aimed for. The intercultural skills of apprentice trainers and master crafts(wo)men are to be strengthened, too, which must be reflected in the related continuing education and training schemes. At the initiative of NGOs individual labour market projects (e.g. paid internships in Steyr, placements in production schools) were put into practice. These are intended to give young asylum-seekers access to the labour market. These programmes make young people more motivated and more independent and greatly improve their mental well-being; they have to be expanded to include more youth. *Health and Social Matters*: cultural needs, different values, religious denominations and family requirements should be considered in the health care system to a greater extent. Specific measures to sensitize staff in health care and social work and improve their qualifications have been developed. *Housing, Living Together*: during the process of wording the mission statement, calls for measures to be taken by politicians were also formulated in respect of adequate housing and places of social encounter. *Culture, Religion, Leisure Time and Sports*: here, improved intercultural exchange, participation of migrants in cultural life are high on the agenda. For children and youth, measures contemplated primarily focused on the creation of youth centres and ethics instruction in every day life at school. A programme focusing on intercultural youth work was established for multipliers.

90. Amongst other things, *Vienna* uses a special pedagogical approach in its nursery schools to counteract discriminatory and racist tendencies. Educational measures including the model “Early Support 1+1” (“Frühe Forderung 1+1”) which was introduced for all preschoolers in 2008. It furthers the education of children who need special assistance to improve their German; this way, it is ensured that children with poor proficiency in German will be able to master the language of tuition to the best possible extent and according to uniform standards (language proficiency models) when they go to primary school. The educational scheme introduced for Viennese nursery schools in 2006 supports this model; Vienna also participates in drawing up an educational scheme for nursery schools (financial and human resources) to be applied in all of Austria.

### **Regional inequalities**

91. The Committee recommends that the State party undertake efforts to harmonize the legal framework for child and youth welfare and care services and to introduce minimum standards in compliance with the Convention at the Länder and district level. In addition, the Committee recommends that the State party systematically monitor and evaluate the quality, accessibility and availability of these services (CRC/C/15/Add.251, paras. 23–24).

92. As stated in the response to conclusion 10–11 (Coordination), the implementation of the Convention is a cross-cutting matter with, legislation and enforcement either being in

the hands of the federal level or the Länder. Various bodies bringing together the politicians in charge of federal and Länder level for the purpose of information and exchange have been set up to harmonize enforcement and coordinate future policies.

93. The existing coordinating bodies, mutual review of draft bills and regulations in the process upstream of adoption, the supervisory functions of the Constitutional and Administrative Courts and the inherent supervisory function of indirect federal administration ensure that there is no discrimination within the meaning of article 2 of the Convention and non-discrimination as enshrined in Austrian constitutional law.

94. In the implementation of given standards, “competition” among the Länder as regards living conditions for children in Austria has a beneficial effect: all Länder try to be as attractive as possible for families and thus provide for the best resources available in the policy areas that concern families, children and youth. This situation gives rise to much diversity and creativity, with a positive effect on the well-being of children. Due to the fact that they are closer to the citizens, the Länder are better able to cater to their needs and align political decisions to regional circumstances. Quality control is in place thanks to sovereign supervisory tasks and standards are improved on an ongoing basis. Different rules and regulations which are due to differences in the assignment of tasks and responsibilities are not discriminatory.

## **B. Respect for the views of the child**

95. The Committee recommends that the State party strengthen its support to the Federal Youth Representative Council and other organizations at local levels, including through adequate provision of democratic structures and financial resources. In light of article 12 of the Convention the Committee recommends that State party continue to promote within the family, schools, administrative bodies and other institutions respect for the views of children and reinforce awareness-raising campaigns among the public in general as well as professionals (CRC/C/15/Add.251, paras. 25–26).

96. As the voting age has been changed from 18 to 16, young people in Austria have been given the most binding form of democratic involvement that exists as a citizen prerogative. The minimum age for supporting citizens’ initiatives was also changed from 19 to 16. July 2009 saw the first citizens’ initiative launched by pupils, which called for pupils’ co-determination rights and democracy at school.

97. The Federal Youth Representative Council (which on its website uses the English name “Austrian National Youth Council” – BJV) is a representation of interests set up by law which has to be involved in all political projects like all other social partners. The ongoing business of the BJV is transacted by the Association “Austrian Children and Youth Representation” (“Österreichische Kinder- und Jugendvertretung” – ÖJV), which most member organizations of the BJV as well as other youth organizations and institutions belong to. The ÖJV has a democratically elected board and represents the BJV in external relations.

98. In early 2009, the Youth Ministry entered into a contract for works and services with the BJV, whereby it undertook to finance the management of the BJV. Financing modalities were negotiated with all member organizations which receive basic funding from the Youth Ministry. The financing system secures the continuing operation of the BJV and ensures complete independence from the federal State, which strengthens the status of the BJV as a social partner.

99. As the right of the child to protection and care is largely supported by the population and in particular by the expert public, one focus of PR work in respect of children’s rights is the principle of respect for the views of children as enshrined in article 12 of the

Convention. The objective here is that more value should be attached to the views of children in decision-making processes. The Youth Ministry raises awareness in this regard and trains multipliers. A working group on participation (“ARGE Partizipation”), composed of representatives of the youth departments in the governments of the Länder and of the Youth Ministry, is an important instrument in this context. By bringing the BJV on board, direct contacts with those in charge of extra-curricular work with youth were deepened. The working group currently focuses on the sustainable participation of young people at communal level; related standards were presented at the end of 2008.

100. The working group on qualification composed of representatives of the youth departments in the governments of the Länder (with participation of the Youth Ministry) develops curricula for the continuing education and training of volunteer and full-time staff in extra-curricular work with youth in which it places great emphasis on the didactic principle of participation and on enshrining, in an appropriate way, co-determination rights of children and youth in specific matters.

101. The Parliamentary Directorate has for several years pursued a democracy initiative for young people. On the one hand, children and youth are the main target groups for numerous events, on the other hand, a number of events discuss topics that relate to children’s and human rights (e.g. “20th anniversary of the Convention on the Rights of the Child”; children as the victims of National Socialism; children as the victims of HIV/AIDS). The “Youth Parliaments”, which always take place in spring and fall, introduce pupils to parliamentary work as the young people simulate the adoption of laws on child poverty, educational reform etc. For younger children, the “Democracy Shop” (“Demokratiewerkstatt”) was set up in October 2007 to organize a wide variety of workshops (17,000 attendees so far). An impressive 63,140 pupils visited Parliament in the parliamentary year 2008/09.

102. Websites fit for children and youth support the democracy initiative of the federal government: the online portal “YOU decide!” (“Entscheidend bist DU!”) is part of the democracy initiative of the federal government, offering young people a platform for participation in political processes. The initiative is funded by the Ministry of Education. The Parliament also provides information fit for children aged 8 to 14 on a special website: [www.demokratiewebstatt.at](http://www.demokratiewebstatt.at). The motto is “Join in, decide, shape!”. The youth portal [www.jugendinfo.at](http://www.jugendinfo.at) run by the Youth Ministry gives access to information, downloads and links pertaining to all questions relevant to youth from A to Z, including issues of work and civilian service. The Federal Chancellery opened a new subsite of [www.help.gv.at](http://www.help.gv.at) specially addressed at young people, inviting youth to join in designing the site in terms of contents.

103. The Ministry of Education furnishes material on the topic of respect for the views of children and non-discrimination: the monthly publication *polis aktuell* (available in digital and printed versions) offers relevant editions: “Mitreden — Mitgestalten — Mitentscheiden” (“Join in — shape — codetermine”, Nr. 5/07) gives an insight into the many perspectives of democracy in school. Models of democratic schools and initiatives for school parliaments and class councils are described, and the publication also deals with legislation on co-determination in Austrian schools. “Education for Democratic Citizenship from the Very Start” (“Politische Bildung von Anfang an”, Nr. 8/08) shows ways and means to combine social learning and co-determination in class so that education for democratic citizenship is not something far removed from the day-to-day life of pupils, so it becomes an experience and something that helps understand complex political processes. One article deals with the role of children’s right in the context of education for democratic citizenship.

104. The manual *Demokratische Schulgestaltung in Theorie und Praxis* (a German translation of “Democratic Governance of Schools”, edited by the Council of Europe, Zentrum polis, 2007) informs headmasters and headmistresses as well as committed

teachers, parents and pupils about democratic developments in schools. The website [www.politische-bildung.at](http://www.politische-bildung.at) also provides information about child and youth participation.

105. The right to vote as from the age of 16 demands a greater emphasis on education for democratic citizenship, a principle supported by the Ministry of Education which published the guideline “Voting as from the age of 16” (“Wählen ab 16”, ed. Zentrum *polis*, 2007) and organizes workshops for classes.

106. The networking platform “Democracy in School and Learning Democracy” (“Schuldemokratie und Demokratie Lernen”), which was established by Zentrum *polis* in May 2007, is an open group offering a framework for the exchange of experiences and information on related issues while also supporting structured work with contents in respect of democracy in school and learning democratic approaches (papers and input, e.g. about school parliaments are made available).

107. The Pedagogic Academies also deal with the topic of participation. The Carinthian PA runs a lower secondary school for candidate teachers who can do internships there, and it relies on the participation of pupils, specially the critical opinions of class and school representatives who meet with teachers on a monthly basis; this is a good example of “democracy at work in school”.

108. One example of good cooperation with NGOs is what schools and the Austrian Youth Red Cross have established: offerings include free downloads on related issues for teachers and youth group leaders; contributions on pertinent topics in youth magazines; planning a children and youth summit on the rights of the child; production and dissemination of posters.

109. The establishment of the “children’s counsellor in custody proceedings” is an important instrument when it comes to enabling children to have a say in all matters that concern them, and to supporting them. In proceedings on custody and rights of visitation, a representative is appointed for the child if the case is highly disputed. The representative follows the proceedings through with the child and acts as a “mouthpiece” of the child, relating the child’s opinion and concerns in court. Pilot projects were run in four Länder and the evaluation (Institute of Legal and Criminal Sociology, Brita Krucsay/Christa Pelikan, 2008) stated that the model was highly effective. In more than half of the cases, the child’s wishes were taken into consideration in the judge’s decision. Often enough, this also caused a change of attitude in the parents.

110. Participation is also enshrined in the *legislation of the Länder*. In *Vorarlberg* the Youth Advisory Council of the Land (sec. 7 Youth Act/Jugendgesetz) brings together youth organizations and independent youth workers; funds of the Land for the promotion of youth work are allocated based on the proposals of the Youth Advisory Council. The service point for child and youth participation “*invo*” (<http://www.invo.at/>) created by the Land in 2004, and all activities and projects of the initiative “A Focus on Children – Generations Work Together” (“Kinder in die Mitte – Miteinander der Generationen”) serve the implementation of the Convention; they are developed in a participatory way, bringing on board the civil society as well as children and youth ([www.vorarlberg.at/kinderindiemitte](http://www.vorarlberg.at/kinderindiemitte)). In *Styria* children’s parliaments of the municipal government of Graz have been in place since 2005, and exemplary Youth Diets have existed since 2008.

111. *Vienna*: Participation of pupils in developments in school (“School Partnership”) is enshrined in the School Education Act (“Schulunterrichtsgesetz”, Federal Law Gazette No. 767/1996); special information and training modules for public compulsory schools in Vienna are organized by the Municipality of Vienna, the School Council of Vienna and the Vienna Federation of Parent-Teacher Associations in support of this. In 2007/08 about 250 pupil representatives (head boys and girls) and about 50 liaison teachers took part in this project. The modules for pupils are offered for secondary school level 1: lower secondary

school, cooperative middle school, special school, pre-vocational school and, since 2005, lower secondary academic school. Since 2006/07 themed workshops (e.g. planning school events) are offered for pupils in addition to the basic modules. Since 2001/02 teachers in charge of pupil co-determination (“SchülerInnenMitGestaltung – SMG), so-called liaison teachers, can attend separate modules geared to their needs. Modules are planned, controlled and evaluated in a participatory process, and taught by multi-professional teams. The project is funded by the Municipality of Vienna, with grants from the Vienna Chamber of Labour and sponsors’ contributions.

112. In almost all districts of Vienna, there exist children and youth parliaments which are all organized differently, depending on demand, possibilities and interests. The parliaments are run by associations active in work with children and youth; in terms of contents, they deal with basic information about district policies, enhancement of democratic attitudes, activation and motivation. The workshops take place in schools, parks or youth centres, they are fora to discuss concerns of the children and young people and these are then communicated to the district council as official requests. Such requests may be about changes to be made in parks, ideas to improve safety in traffic, or environmental concerns. They are usually submitted to the district governor or a committee of the district council in an official meeting. Normally, another official meeting with the district governor will be held to inform children and young people about the implementation of their requests.

113. The Committee recommends that the State party continue and increase its support for the child helpline (“147 Rat auf Draht”) in such a structural manner to ensure that this important instrument for children to express their concerns and views and to seek help and advice, can operate in the most effective way (CRC/C/15/Add.25, paras. 27–28; CRC/C/OPSC/AUT/CO/1, para. 30(d)).

114. The child helpline “147 Rat auf Draht” operated by the Austrian Broadcasting Corporation ORF is co-financed by several Federal Ministries (Family, Interior, Education and Health) as well as the Austrian Telecom. Since 2003 the Länder have also contributed to funding the helpline.

115. Moreover, there exist further regional helplines for children which are supported financially by the individual Länder. The Child and Youth Advocate Offices of the Länder are important contact points, cooperating well with the child helpline “147 – Rat auf Draht”. The Land of Vorarlberg supports special activities of the pastoral advice service for children and youth. In Salzburg the Land gives financial support to a complementary helpline (“kidslines”) offering targeted counselling for minors in Salzburg.

## **V. Civil rights and freedoms (arts. 7, 8, 13–17 and 37 (a))**

### **A. The right to identity**

116. The Committee recommends that the State party undertake all necessary measures to prevent the use of the so-called “baby flaps”. It further recommends that the State party, as a matter of urgency, introduce and implement legal provisions and regulations for the separate registration of all relevant medical and other data, in particular the name and birth date of the parent(s) and allow the child at an appropriate time to have access to these data (CRC/C/15/Add.251, paras. 29–30).

117. The baby flaps and the practice of anonymous birth are measures taken to save the lives of children whose mothers do not see any option of keeping the children and would

otherwise dispose of them under potentially lethal circumstances or kill them. Since Austria is a signatory State of the European Convention on the Protection of Human Rights, the fundamental right to private and family life has to be taken into consideration (art. 8 EHRC). The mother's right not to register her name when giving birth to a child is, however, the last resort to avoid a lethal situation for the child. Mothers in extreme distress who do not want to avail themselves of the opportunity of giving birth anonymously in a hospital can take recourse to the baby flaps, which is why these were introduced. In both cases, the mothers are given an opportunity of revealing their identities for the benefit of the children or to leave a message to be read by the child in the future.

## **B. Access to appropriate information**

118. The Committee recommends that the State party continues and strengthens its efforts to protect children from harmful information. It further recommends that the State party provide parental education and awareness-raising of children, to effectively protect children against violence on the Internet, television and computer games and encourage international cooperation in this respect (CRC/C/15/Add.251, paras. 31–32).

119. The Youth Protection Acts of all Länder contain general provisions whereby media and data carriers which endanger children and youth must not be offered or made accessible to these. As standardized youth protection labelling (information about the age from which a game is considered appropriate) is important to give guidance to youth and parents, it is contemplated to recommend to the Länder that the commercial distribution of computer games to children and youth should be made contingent on the PEGI label (Pan European Game Information) and that games should only be sold to purchasers of the right age group. In some Länder, legal provisions already fulfil this requirement.

120. Austrian Internet service providers are not obliged to report child pornography to the authorities in charge but they have subjected themselves to voluntary self-monitoring by founding the "Stoptline" reporting unit which every user may communicate illegal or suspicious content to. The reports are examined for potential violations of Austrian penal laws by experts. If any suspicious activity is identified, law enforcement will be informed and the provider will be notified, if necessary.

121. In cooperation with Saferinternet.at, the Austrian network member of the EU Programme "Safer Internet", the Youth Ministry informs children and youth as well as parents and educators about the opportunities and dangers of the Internet, mobile telephony services and computer games, communicating strategies to benefit from the opportunities and control the dangers. For this purpose brochures and other information material are published regularly, joint events are organized and there is national and international networking.

122. Moreover, the Youth Ministry has established a test centre for the positive labelling of computer and console games ("Bundesstelle für die Positivprädikatisierung von Computer- und Konsolenspielen" – BuPP) which gives guidance and background information to parents, educators, children and youth. This includes the publication of a list of recommended computer games which is updated regularly, workshops for children, youth, parents and education, participation in the inter/national scientific discourse and the preparation of material for the use of media in teaching.

123. The information platform for the secure use of the Internet ("internet sicher nutzen", coordinated by the Federal Chancellery via [www.help.gv.at](http://www.help.gv.at)) has a page on computers and online games which contains information and practical hints on recommended games, labelling of content and age, as well as gaming addiction.

124. Information available on the website [www.eltern-bildung.at](http://www.eltern-bildung.at) and in the so-called “Letters to parents”, parents are sensitized to the way in which they can help their children use all types of media (books, television, Internet, Web 2.0, mobile phones etc.) in a targeted and deliberate way, with a preference for positive content, and avoid inappropriate films, games and websites.

#### **Examples from the Länder**

125. *Upper Austria*: As a minimum penalty for adults was introduced, adults now observe and support the rules set forth in the Youth Protection Act vis-à-vis children to a greater extent.

126. The counselling sessions and workshops of KiJA Upper Austria and the attached office for the prevention of bullying and violence also revolve around the use of the media and potential legal consequences in case of abuse. Every year, the 10 excellently trained staff members do roughly 300 workshops at schools. Moreover, an office for the prevention of bullying offers individual counselling for pupils concerned, parents, teachers, teacher trainers, organizers of school projects and speakers at meetings of parents’ associations, to name but a few target groups. The bundling of offerings and possibilities of regional players in the field of preventing violence also led to the establishment of the Upper Austrian Platform for the Prevention of Violence, which brings together the Child and Youth Advocate Office KiJA for Upper Austria, the School Council of the Land, police and the Institute for the Prevention of Addiction).

### **C. Protection of privacy**

127. The Committee recommends that the State party take the necessary measures such as awareness and educational campaigns to improve understanding of and respect for the child’s right to privacy among parents and other professionals working for and with children (CRC/C/15/Add.251, paras. 33–34).

128. The websites of the Ministry for Family and Youth ([www.kinderrechte.gv.at](http://www.kinderrechte.gv.at); [www.elternbildung.at](http://www.elternbildung.at)) contain special articles on the protection of privacy, e.g. in the media, in the context of justice and medicine. Since the protection of privacy is ensured to a greater extent if there is more general respect for the opinion and wishes of children, a focal message of PR about children’s rights is the strengthening of these rights and the position of children in society as such.

129. The protection of privacy was widely discussed in the media on the occasion of a highly publicized trial involving the sexual exploitation of children (March 2009). To protect the privacy of the victims, the trial was largely held in camera, which contributed greatly to sensitization of the public at large. The National Council discussed the issue with experts in the framework of a parliamentary *enquete* on media law and victim protection (3 July 2008).

## **VI. Family environment and alternative care (arts. 5; 18 (paras. 1–2); 9–11; 19–21; 25; 27 (para. 4) and 39)**

### **A. Family reunification**

130. The Committee recommends that the State party undertake all measures to ensure that family reunification procedures fully comply with article 10 of the Convention (CRC/C/15/Add.251, paras. 35–36).

131. Section 2, paragraph 1, subparagraph 9 of the Act on Settlement and Residence (NAG) redefined the notion of the “family member” which now also comprises all single minor children. Thus, the children of third-country nationals moving to Austria between the age of 16 and the time when they become of age to join their families are entitled to a limited settlement permit if they fulfil section 46, paragraph 4 NAG.

132. In certain cases a residence title may also be granted to children irrespective of a quota, e.g. children born in Austria are entitled to it pursuant to section 23, paragraph 4 NAG.

133. Under article 8 of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, national quotas are permissible. The Federal Constitutional Court has not found quotas to be unconstitutional, either.

134. The status of the person staying in Austria and requesting reunification is decisive for the type of residence title that is granted to family members entering Austria. The determination of this person’s status is always the point of departure and the basis of decision-making in family reunification procedures.

135. Residence permits granted for the purpose of family reunification are usually subject to a quota. Waiting periods are limited to a maximum of three years under the Family Reunification Directive. For this reason, the NAG stipulates that applications are no longer subject to a quota after this period if they have not been decided upon earlier.

136. The NAG also contains completely new provisions concerning family reunification with Austrians, EEA citizens and Swiss nationals. Residence permits for family reunification are no longer exclusively based on nationality but also on the question as to whether there is an actual entitlement to free movement and if it is used. Residence rights arising directly from the freedom of movement in Europe will “only” be documented.

137. When the NAG was amended as per 1 April 2009, consideration of article 8 of the European Convention on the Protection of Human Rights was clarified, in that the criteria developed by the European Court of Human Rights and summarized by the Austrian Constitutional Court were directly incorporated in the law. All grounds for rejection pursuant to section 11 NAG (with the exception of residence and re-entry bans as well as marriages and adoptions for the purpose of residence) have to be weighed according to section 11, paragraph 3 NAG and this stage in the process is obligatory. The application of article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms was also included in formal provisions (application procedure etc.). In cases of unaccompanied minors, the well-being of the child also has to be taken into consideration.

138. Any substantive or formal preference for this target group beyond current legislation would in any event be questionable from the point of view of constitutional law as it violates the principle of equal treatment.

## **B. Abuse, neglect and violence against children**

139. The Committee recommends that the State party (a) provide for training of personnel involved, both in the prosecution process as well as in the recovery process; (b) provide programmes for modifications of attitudes and behaviour of abusers and perpetrators; (c) improve the recovery programmes for child victims; and (d) make an attempt to have a one-stop service where multidisciplinary and intersectorial services are provided (CRC/C/15/Add.251, paras. 37–38).

140. Since 2006 a special focus in the training of Austrian law enforcers as regards crime prevention is on the field of domestic violence against women and children. Special classes communicate the following content: background information about the phenomenon of



domestic violence, types and consequences, understanding the situation of those concerned, especially the victims (battered and/or abused children and battered women); background information about the situation and modes of operation of perpetrators, exchange of experiences and discussion of doubtful cases; development of strategies for action, victim-oriented interventions which take the needs of victims into consideration, adequate communication, conflict management, managing problematic situations in interventions, coping with ambivalence, information on various cooperation partners, fostering of contacts with NGOs, enablement to cooperate with other official institutions.

141. The seminars are also meant to further interdisciplinary cooperation among those who deal with domestic violence. The institutionalized involvement of people from other professions in law enforcement training also strengthens cooperation with non-governmental organizations.

142. The Federal Ministry of the Interior trains officers of the Regional Criminal Intelligence Offices (LKA) in charge of interrogations in interrogation techniques; in these seminars psychologists teach the officers techniques which safeguard the rights of those interrogated, and especially how to deal with children, youth and victims.

143. When it comes to crime prevention in the context of sexual offences, related tasks are assigned to specially trained police officers as a matter of principle. These officers in charge of crime prevention are in charge of the following: proactive approach, being a “driver” in preventive action taken by other stakeholders by indicating relevant problems, provision of the police information required to solve problems, work towards common preventive measures, and development of common solutions to problems. The specially trained officers support nursery school teachers, teachers and parents in comprehensive sexual education.

144. In the course of 2007 a total of 135 additional officers were trained to work in the field of sexual crime. One of their tasks is public speaking to strengthen the moral courage of the population, motivate them not to look away but take an active stance so that abuse cases are identified and reported early on.

145. Judges and public prosecutors in all of Austria are also offered several continuing education classes per year about this topic; staff members of counselling centres and shelters act as speakers at these seminars. Usually, changes in the legal situation are accompanied by appropriate training.

146. In Austria, the institutions in charge of assisting victims of violence (youth welfare offices, children’s shelters, counselling services) exclusively employ specially trained personnel (social workers, psychologists, lawyers etc.). These persons are also an important target group as regards raising awareness to the rights of the child.

147. In 1998 the Family Ministry addressed the topic as part of its victim protection efforts by publishing the literature catalogue “Work with violent criminals – International models of work with perpetrators” (“Arbeit mit Gewalttätern – Internationale Modelle in der Täterarbeit”). From 1997 to 2001 the exemplary project “Working with abusers” was subsidized; it was completed with the publication of the report deriving from the supporting scientific programme “Victim protection by prevention of recidivism. The Vienna social therapy programme for sex offenders” (“Opferschutz durch Rückfallsprävention. Das Wiener Sozialtherapeutische Programm für Sexualtäter”) in 2002. From 1998 to 2000 standards for work with perpetrators were developed in an inter-ministerial working group also including experts from the fields of victim support and work with perpetrators. From 2002 to 2003 workshops for the clinical psychological diagnosis of abusers in extramural work with perpetrators were held. The platform against domestic violence also engages in work with perpetrators and preventive work with boys and young men. Two brochures on work with boys were authored under the aegis of the platform. An *enquete* organized by the

Ministries for Family and of Justice under the title “New Paths in Victim Protections” (“Neue Wege im Opferschutz”) in September 2005 was devoted to work with perpetrators, perpetrator therapy and the institutions working with perpetrators.

148. One of the five areas of the platform which was initiated and is funded by the Family Ministry is work with young males and men. It is in charge of bringing together the Austrian Counselling Centres for Men which inter alia offer projects for young males to prevent violence as well as counselling for men. The focus of the 2007 project was approaches to the prevention of violence in work with boys, ongoing practices were reviewed and the curriculum was developed further.

149. Targeted action against acts of violence by men within and outside the family and the prevention of violence, especially among boys and young males, were in the centre of policies on men in the Ministry of Social Affairs. In the years 2007 and 2008 Austrian counselling institutions for men were in the focus of funding activities.

150. Under the umbrella “Jointly against violence” (“Gemeinsam gegen Gewalt”) the Ministry for Social Affairs, White Ribbon Austria and the Ministries for Women, Education and Justice developed a package of measures for the prevention of violence. It includes advocating the end of traditional roles as well as the development of positive male identity – starting with gender-sensitive education of boys and young males. Under the motto “There is no home for violence here” (“Gewalt hat bei uns kein Zuhause”) the Ministry for Social Affairs cooperated with White Ribbon in campaigning against violence and providing extensive information to sensitize the public under the title “We are men who do not need to resort to violence” (“Wir sind Männer ohne Gewalt”).

151. Since 2001 the family Ministry has subsidized quality assurance measures for psychosocial and legal victim support during court proceedings given to children and youth; this was done by way of continuing education and training, supervision seminars, and since 2008 this has also included a law seminar for psychosocial support persons in court proceedings. Moreover, funds are provided for leaflets and posters published by the victim support services, the federal coordination of victim support persons, and the website [www.prozessbegleitung.co.at](http://www.prozessbegleitung.co.at). Due to the quality assurance measures, it was possible to integrate the victim support services in court proceedings into the existing victim assistance system. Since 1 January 2006 all victims of violent and sexual crime and their caregivers are legally entitled to psychosocial and legal support during court proceedings.

152. Victims have extensive rights in criminal proceedings. Almost all amendments to the Code of Criminal Procedure focused on an improvement of victim protection. In this context, the most essential aims were shaping and safeguarding the procedural rights of victims and support of victims in their efforts to be compensated, as well as protection from serious psychological impairment due to prosecution of the perpetrator (secondary victimization).

153. Victims of violent crime or sexual abuse (in particular children and youth) are provided with competent psychological, social and legal advice and support free of charge. As from 1 January 2006 victim protection was inter alia strengthened by the fact that the institute for psychosocial and legal victim support in court proceedings, which had been subsidized by the Federal Ministry of Justice since 2000, was actually given a legal basis. At present, 22 institutions specialize in victim support for children and youth; they have funding contracts to provide psychosocial and legal victim support in court proceedings. The funds available for the victim support organizations were increased over the past few years, up to and including 2009. In 2008 a total of €4.5 million were available for victim support, out of which about €3.9 million went to victim support in court proceedings.

154. Moreover, every victim is entitled to compensation for the damage sustained due to the crime or an indemnification for the objects of legal protection under criminal law that were impaired by the punishable act.

155. Improvement of victim protection by networking of bodies concerned: by decree of the Ministry of Justice dated 13 January 2009 the Presidents of the first-instance courts for criminal matters are asked to convene and chair *Round Table on Victim Support in Court Proceedings* at regular intervals, at least one a year, in coordination with the chief public prosecutors at their courts. These should bring together judges in charge of criminal proceedings and public prosecutors, representatives of victim support institutions under contract for providing support in court proceedings, representatives of the local Bar Societies, lawyers who work in legal victim support, representatives of the local police force, the youth welfare offices and the office of the local advocate for children and youth (KiJA).

156. Cooperation fora for victim support: in Upper Austria quarterly meetings of the institutions offering victim support in court proceedings have turned out to be a tried and tested method to ensure quality management. The Upper Austrian KiJA functions as a coordinator and monitors the forum for regional providers of victim support (primarily child protection centres).

157. Child protection groups in hospitals: when there is reason to suspect violence and abuse, the child protection groups which have been established by law in all paediatric hospitals and paediatric wards are particularly helpful. They were already described in the second periodic report (para. 715). To facilitate the work of the multidisciplinary teams (physicians, psychologists, nurses, social workers) which clarify suspicious circumstances in hospitals, as well as of general practitioners, paediatric specialists and gynaecologists, the Family Ministry has published a manual for child protection in the health professions (“Leitfaden für die Kinderschutzarbeit in Gesundheitsberufen”), making it available to all relevant professionals.

158. The creation of a central one-stop service out of all these initiatives carried out by the institutions and organizations in charge, as proposed by the Committee, would cause organically grown structures to disintegrate and it would not foster the commitment of the regional administrative bodies to their work in the prevention of sexual violence and victim protection.

### C. Corporal punishment

159. The Committee recommends that the State party continue its public education and awareness-raising campaigns on non-violent forms of discipline and child-rearing. The Committee also recommends that the State party undertake studies on the prevalence of violence in children’s experiences and the negative effects of corporal punishment on the development of children (CRC/C/15/Add.251, paras. 39–40).

160. In the period under review, the Family Ministry initiated numerous measures for awareness-raising for non-violent child-rearing and gave financial support to parental education activities organized by other institutions. Offerings include seminars, lectures, workshops; parent and child groups with qualified moderators and new types of low-threshold parental education on all important issues (development stages of the child, various forms of families, different cultural backgrounds, migration background, children with special needs etc.). Every year, about 90,000 Eltern (90 per cent of them mothers) attend these events. The Ministry also funds the PR for parental education offerings, networking and training programmes. The events are advertised in various media (radio, magazines and posters). Moreover, a broad range of parental education offerings is also

available in the Länder to enforce the general ban on violence in child-rearing which was introduced by law in Austria in 1989.

161. The Family Ministry publishes much information in writing (hard copies, CD-ROMs) which is handed to parents on the occasion of the birth of a child. “Letters to parents” for the next five years in the life of the child are ordered free of charge by roughly 10,000 parents (about 15 per cent of parents in any one birth year) annually. The website [www.eltern-bilduna.at](http://www.eltern-bilduna.at) run by the Family Ministry is consulted by about 350,000 users a year. In the years 2005–2006 €1.1 million per year were spent for these services, since 2007 the annual expenditure is around €1.3 million.

162. In 2007 and 2008 the Family Ministry topped up the budget for the subsidizing family counselling centres and parent-child centres by €700,000 each so that now an annual total of €11.6 million are available. The additional funds were used for facilities in under-supplied areas and special focus programmes. Subsidized counselling is designed as non-directive and in the sense of empowerment so as to provide “help to self-help”. It should be seen as a measure conducive to “positive parenting” because it can be safely assumed that any exoneration from or solution to a problem offered to the parents will be for the benefit of the children.

163. The Family Ministry commissioned the Institute for Conflict Research (IKF) to assess the costs of domestic violence. The results of the survey were published in 2006, showing that calculations concerning the economic consequences of violence against children are based on data which are not entirely sound so that many assumptions have to be made. Nevertheless, surveys of this kind can contribute to awareness-raising and the legitimacy of measures to prevent violence.

164. In 2008 the Family Ministry commissioned a broad survey exploring the understanding people have of violence in child-rearing and the readiness to use violence. In this context, parents, children and youth as well as experts (from the fields of pedagogics, medicine, psychology and social work) were interviewed. The results of the survey will be presented to the public on the occasion of “20 years of the ban of violence in child rearing”.

#### **Examples from the Länder**

165. *Upper Austria:* On the occasion of the 20th anniversary of the ban of violence in child-rearing (sec. 146a of the Austrian Civil Code) the Child and Youth Advocate Office (KiJA) in Upper Austria have stepped up their campaigns for institutions by drawing increased attention to the ban of violence in child-rearing to raise and strengthen parents’ awareness. The “Parental Video Training” of the Upper Austrian Youth Welfare Office was devised to show parents alternative ways of action in communication so as to avoid violence because they usually do not resort to violence out of conviction but because they are overcharged.

166. *Tyrol:* Here, the work of authorities in child protection has been improved. The outcome of the drive was published in the report “Improving Official Child Protection” (“Verbesserung des behördlichen Kinderschutzes”) and made available to experts as a basis of discussions. On the occasion of the 20th anniversary of the ban of violence in child-rearing pursuant to section 146a of the Austrian Civil Code, the Child and Youth Advocate Office i.a. enhanced its work with institutions so as to raise more awareness among families. The brochures “Violence against Children” (“Gewalt an Kindern”) and “Sexual Violence against children” (“Sexuelle Gewalt an Kindern”) were sent to paediatricians, gynaecologists, general practitioners, schools and counselling centres. A new edition is being prepared. The project “Domestic violence – children as victims and witnesses” (“Häusliche Gewalt – Kinder als Opfer und Zeugen”) is executed by the Youth Welfare Department of the Office of the Tyrolean Government, the Child and Youth Advocate

Office as well as the Centre for Protection from Violence. The project group also includes staff of a men's counselling centre, police and district authorities in charge of youth welfare. General tasks of all institutions represented in the project group include keeping the negative effects of violence on the health and psychosocial development of affected children as low as possible, taking appropriate protective measures, and doing preventive work. "Domestic violence – children as victims and witnesses" is addressed to persons heading nursery schools and schools, it aims to offer a broad basis of information, strengthen these persons' agency and deepen as well as further develop their cooperation with the relevant institutions. The multipliers are invited to a one-day seminar about the possibilities and offerings in their region. To reach the widest possible audience, the most important decision-makers of the districts (heads of district administrations, mayors) are involved upstream. The project was carried out for nursery schools from the fall of 2006 until June 2009, it is currently being evaluated, following seminars will be adapted to needs.

## **VII. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1–3)**

167. The Committee recommends that the State party strengthen its efforts to prevent drug and tobacco use and alcohol abuse and to harmonize the different regulations in the various *Länders* on this matter. The Committee recommends that the State party undertake practical measures to prevent access to information through the Internet that is inciting suicide (CRC/C/15/Add.251, paras. 41–42).

168. The Ministry of Health strengthened its efforts enshrined in the government programmes of the period under review extended the "national alcohol strategy" toward the "further development of a national addiction strategy with a special focus on the risks for children and youth". In 2007 an "Alcohol Forum" was established for that purpose; it was to develop propositions based on the relevant EU and WHO strategies and bring forth a national alcohol strategy.

169. The Forum brought together all relevant stakeholders and addiction experts; it set up four working groups, three of which deal with prevention, including in particular, juvenile alcohol abuse. The recommendations of the Forum were presented in 2009: they concern better coordination and networking of prevention and research activities relevant to alcohol-related issues (creation of an information platform), the harmonization of legal provisions at the level of the *Länder* (youth protection, laws governing events), the creation/extension of early warning and early intervention mechanisms, increased consideration of alcohol-related issues in the continuing education and training of physicians and other health occupations, as well as of educators (nursery schools, schools), quality assurance issues and further campaigns to sensitize and inform the public with lasting effect, also bringing on board businesses.

170. The harmonization of the youth protection laws in the *Länder* is a concern of the federal government which, for years, has put much effort into obtaining the consent of the *Länder*, which under the constitution are responsible for regulations in this field.

171. In the report on the drug situation in Austria for 2008, experts stated that youth using drugs primarily experiment with (illicit) psychoactive substances temporarily and do not use drugs regularly. It was also found that by comparison with other European states, the number of smokers, including youth, is fairly high in Austria.

172. Therefore the federal government and the *Länder* continually take measures of prevention, counselling, treatment and care to prevent the use of drugs and tobacco. The emphasis for both the federal and the *Länder* levels is on a qualified, diversified and area-

wide network of counselling and care centres and state-of-the-art infrastructure in prevention.

173. Medical care for children that is appropriate for their age is an important concern of the federal government. In 2004 the special requirements of children as regards services and care were assessed by experts and an Austrian Health Plan for Children was prepared. The first measures have already been taken as medical training was improved and children's rehabilitation centres were created. Since 2005 the Federal Minister of Health is assisted by an advisory board, the so-called "Children's Commission" consisting of experts from all areas of paediatrics. The Austrian Health Plan for Children can be accessed on the Ministry's website.

174. To improve the safety and efficacy of treatment in children and youth requiring medication, the Ministry of Health supports the projects carried out by AGES PharmMed to implement Regulation (EC) No. 1901/2006 on medicinal products for paediatric use, by taking infrastructural measures. Available data on medicinal products for children are collected to ultimately establish an EU therapy requirement inventory with research priorities on this basis.

175. As regards the recommendation to prevent access to suicide fora, please refer to the youth protection acts which stipulate that no media content that endangers youth must be accessible to young persons.

#### **Measures of the Länder**

176. In *Lower Austria* these recommendations have been implemented in the Lower Austrian Youth Act/Jugendgesetz (sec. 18) as well as by extensive information and prevention campaigns at schools, organized by the unit in charge of children and adolescents in the government of the Land, which has an expert desk for drug prevention, coordination and counselling, as well as by the Child and Youth Advocate Office.

177. In *Upper Austria* practical measures for prevention and awareness-raising are in place. The Institute for the Prevention of Addiction (Institut Suchtprävention) devotes itself to the continuing education and training of pedagogic personnel in respect of alcohol, drugs and addiction, offering education materials, workshops and training courses. In the framework of "KiJA on Tour 2007/08" the Upper Austrian Child and Youth Advocate Office and the Institute joined forces to raise awareness to the right of the child to health. Special themes included the way in which youth cope with addictive behaviour and the situation of children whose parents are addicted or mentally ill. A play, a musical, workshops, tuition materials and continuing education for pedagogues were offered. More than 12,000 pupils attended the roughly 50 performances at 25 locations. More than 50 school workshops were organized, with 300 teachers taking part in relevant continuing education.

178. In the *Tyrol* measures for prevention and awareness-raising are also in place. Educators are trained on issues of alcohol, drugs and addiction as the regional Center for the Prevention of Addiction (Suchtpräventionsstelle kontakt+co) prepares comprehensive documentation and offers workshops and training programmes. Moreover, the Child and Youth Advocate Office support municipal youth protection projects by sending youth counsellors, and assists the Tyrolean Youth Campaign (Tiroler Jugendoffensive).

179. As other Länder, *Vienna* also has a Youth Protection Act containing rules on the consumption of alcohol and tobacco. The Länder Vienna, Lower Austria and the Burgenland strive to harmonize these provisions, especially with a view to having uniform legislation in the Greater Vienna area.

## A. Harmful traditional practices

180. The Committee recommends that the State party strengthen its efforts to prevent and eliminate this practice [FGM] by conducting well targeted and appropriate educational campaigns in the context of religious communities and by considering the possibility of making punishable by law those involved in the performance of FGM outside of Austria (CRC/C/15/Add.251, paras 43–44).

181. Pursuant to section 67, paragraph 2 of the Austrian Criminal Code (ACC), even being a minor accessory to the act in Austria will make the perpetrator liable to punishment. This means that solely the organization of genital mutilation (transportation, medical care etc.) is punishable in Austria, irrespective of where it actually takes place. This is also regardless of whether the act was committed by an Austrian or non-Austrian, and it does not depend on whether the act is punishable under the laws of the country where the act took place.

182. No matter what the laws of the scene of the act say, Austrians who commit punishable acts to the detriment of other Austrians are liable to punishment if both have their domicile or habitual residence in Austria (sec. 64, para. 1, subpara. 7 ACC). If an Austrian girl is taken abroad by her parents (who are Austrian nationals) for the purpose of genital mutilation, they can be prosecuted in Austria if they have their habitual residence in Austria. If none of these criteria are met, the perpetrators may be punishable under section 65, paragraph 1 ACC, if the act is also punishable under the law of the crime scene, which — theoretically — is very likely. If this requirement is fulfilled, Austrians can be prosecuted in Austria and non-Austrians can be prosecuted if they are arrested in Austria and cannot/are not extradited, which is none to improbable in such cases.

183. Irrespective of the fact that genital mutilation has always been punishable in Austria as a matter of principle, and that the 2001 Act amending the Criminal Code (*Strafrechtsänderungsgesetz 2001*) clarified in section 90, paragraph 3 ACC, that genital mutilation cannot be agreed to (not even on religious grounds), there has been no report to police and thus no penal proceeding for FGM in Austria so far. Although the extension of domestic jurisdiction to punishable acts exclusively committed abroad is met with some scepticism against this backdrop, the implementation of these Committee recommendations is contemplated.

184. As migration and immigration have caused the issue of FGM to arise more frequently in Austria (there are estimates that this involved around 8,000 cases), the prevention of FGM is an important concern. In 2005 and 2008 the Minister for Women invited representatives of several ministries and experts from various fields to meetings about forced marriage and female genital mutilation. The Initiative against Harmful Traditional Practices (HTP) was continued in specialized conferences for multipliers.

185. To give the issue more visibility, sensitize the population and cover the field in all its aspects, migration, and especially harmful traditional practices were explored from a gender perspective. The related survey, “So near and yet so far – harmful traditional practices to the detriment of women” (“So fern und doch so nah – Traditionsbedingte Gewalt an Frauen”) was published on the Federal Chancellery’s website in 2008. Concomitantly, the brochure “Tradition and Violence against Women” (“Tradition und Gewalt an Frauen”) was published to sensitize and support women affected by HTP.

186. Starting from 2007, the federal government was engaged in a participatory process which led to a “National Action Plan to Prevent and Eliminate FGM in Austria 2009–2011” (“Nationaler Aktionsplan zur Vorbeugung und Eliminierung von FGM in Österreich 2009–2011”) which was debated by Parliament on 25 November 2008. The Action Plan aims at the coordination of activities and projects against FGM in Austria as well as at the

networking and coordination of Austrian authorities in charge of FGM with the work of NGOs, migrant and religious communities and the media so that projects for the prevention and elimination of FGM can be initiated in Austria.

187. The Austrian Platform against female genital mutilation — stopFGM.net — which was founded in 2003 is the initiative of a female MP in the National Council and of NGOs; it devotes itself to information and education, offering continuing education events for physicians, midwives and pedagogues. A folder for parents clearly explaining that FGM is a human rights violation is available in Vienna hospitals and doctors' practices in German, English, French, Arabic and Somali and has been published on the platforms' website at [www.stopFGM.net](http://www.stopFGM.net).

188. At the conference "FGM – State of the Art Treatment and Prevention" organized by the City of Vienna on 29 and 30 June 2009 new prevention approaches and the National Action Plan against FGM were presented. National and international experts discussed the experiences from medical care and prevention of FGM in the EU member States. The conference is to contribute to further developing international standards and to establish state-of-the-art care in gynaecology and obstetrics, reconstructive surgery and the treatment of FGM as psychic trauma.

189. During the Gender Days of 2008 — "Migration and Gender" — the exhibition "Criminal Motivation: Honor" ("Tatmotiv Ehre") dealt with the human right of physical integrity and self-determination as well as with misogynous traditions. The exhibition focuses on violence against women and girls in the name of honour; it was open to the public from 5–25 November 2008 (Vienna) and was visited by numerous school classes.

190. At the International Conference on the Development of National Action Plans against Female Genital Mutilation in October 2008 the President of the National Council was awarded a prize by the Chair of the EURONET-FGM network for her long-standing commitment to the issue.

191. The City of Vienna takes a number of measures against forced marriage and for the sensitization and information of target groups about counselling centres and options for women and girls who need shelter. The brochure "Getting married without force" ("Heiraten ohne Zwang") is available in youth centres, schools and hospitals, and lists the relevant support organizations such as the helpline for women run by the City of Vienna, the association Orient Express, women's shelters, the multicultural living community of Kolping Austria and the facilities of the Office for Youth and Family. In 2008 guidelines for responses to forced marriage were developed for units of the Municipality and counselling centres.

## **B. Right to an adequate standard of living**

192. The Committee recommends that the State party take all necessary measures to further reduce and eliminate family poverty which affects children. It also recommends that the State party continue to provide well coordinated financial assistance to support economically disadvantaged families, in particular single-parent families and families of foreign origin, to guarantee the right of the child to an adequate standard of living. In this regard, efforts should be increased to support, in particular single mothers with re-entering the labour market and to extend good quality and affordable child day-care facilities (CRC/C/15/Add.251, paras 45–46).

193. To fight poverty and social exclusion of children and youth, the federal government's Strategic Report 2008–2010 foresees a reduction of income-related poverty for children by currently 15 per cent to 10 per cent, primarily by giving parents better



opportunities of earning, and an enhancement of the chances underprivileged children and youth have.

194. With the introduction of the childcare allowance (2002), improvements in the family allowance, which is graduated according to the age and number of children, and tax credits (tax credit for children, sole earner credit, lone parent credit and maintenance tax credit, tax credit for special expenditures and extraordinary charges) the goal of covering the expenses arising for children was reached for a large majority of families whilst considering constitutional requirements and budgetary possibilities.

195. To reduce the burden of expenses arising when children go back to school in the fall, an additional monthly family allowance was introduced in 2008 (13th family allowance instalment, i.e. the family allowance for September is doubled). This benefit is tangible support, especially for low-income families. In the framework of the 2009 tax reform another family package totalling €510 million was adopted. It includes an increase in the tax credit for all children from €50.90 to €58.40 and a new tax free amount of €220 per child and year which parents liable to pay taxes, benefit from.

196. Effective as from 1 January 2008 the following target-group related measure was introduced for families with three or more children, who are particularly at risk of poverty: where amounts are graded for siblings, they were raised to €35 for the third child, and to €50 for all further children starting from the fourth child (until 2007 the amount was €25.50 per child). The limit of eligibility for the means-tested multiple child bonus of €36.40 for the third and each further child was raised to €55,000 (family income p.a.).

197. For these new benefits and allowances for multiple child families, which roughly 170,000 children profit from, about €36 million are provided from the Family Burden Equalization Fund (about €26 million for the increase in the graded amounts for siblings, and about €10 million for the rise in the income threshold for the multiple child bonus).

198. The earnings situation of parents has also improved as the exemption limit for the childcare allowance was raised. The limit for the additional income of parents eligible for the childcare allowance and the supplement to the childcare allowance is now €16,200 for the parent receiving the childcare allowance. The exemption limit for the other parent was also raised. The supplement to the childcare allowance of €6.06 per day is a kind of loan to be repaid to the Tax Office later on.

199. The childcare allowance, introduced in 2002, lowers the risk of poverty for families. It was evaluated from 2002 to 2006 and clearly showed that in 13 per cent of the families receiving childcare allowance the income is above the at-risk-of-poverty threshold for the period when the allowance is received.

200. To give parents more of a choice when reconciling family and work, three flexible variants were created for the childcare allowance as from 1 January 2008. They differ according to duration of eligibility and amount. The shorter the period for which childcare allowance is received, the higher the amount. The more flexible childcare allowance aims to be conducive to a speedier re-entry of the labour market by parents, thus anchoring both parents more firmly in employment and giving them better opportunities; moreover, it also improves the current income situation of lone parents. The flexible childcare allowance should also be more of an incentive to fathers to take part in childcare more actively, so as to improve the family-work balance for both parents. The current government programme envisages further development of the childcare allowance by adding means-tested factors so as to improve the framework conditions for the reconciliation of family and work for both fathers and mothers.

201. Existing monetary benefits (transfers and tax credits) within the framework of family policy measures help roughly 130,000 children to live with an income above the at-risk-of-poverty threshold.

202. To improve the financial situation of lone parent families, the Family Law Reform Act (*Familienrechtsänderungsgesetz, FamRÄG 2009*) revoked the provision which previously required unsuccessful execution to be levied against the assets of the person obliged to pay child maintenance. Now advances on child maintenance can be granted faster and more continuously, thus improving the situation of children entitled to child maintenance (enforceable title).

203. *A life and work environment fit for families*: apart from legal measures, awareness-raising for parents and businesses also improve the prerequisites for balancing family and work. Monitoring instruments such as the “family and work audit” (“Audit berufundfamilie”), the “family-friendly local community audit” (“Audit familienfreundliche Gemeinde”), or the nationwide competition for the “most women- and family-friendly business” (“Frauen- und familienfreundlichster Betrieb”) are important activities in this field.

204. As from 1 January 2009 childcare costs were made tax deductible. Although this can only be claimed by tax-paying parents, the maximum amount of up to €2,300 per child and year is especially important for working lone parents because it can be used for institutional care as well as other forms of qualified care (day-care mothers, nannies etc.).

205. *Childcare*: childcare facilities have been expanded, and further expansion is planned so as to further improve the framework conditions for a reconciliation of family and work and the opportunities of all children in the educational system. In the years 2008 to 2010 the federal government and the Länder invested an additional €105 million in expanding childcare facilities, with a special focus of children under the age of 3. The nursery school statistics provide information about the extent to which families avail themselves of these options (see annex).

206. The childcare facilities further preparation for the requirements of school whereas schools offer intensified support for slow learners and impaired children; for example, linguistic advancement of pupils who are not sufficiently proficient in German has been an important focus.

207. To give all children better educational options and opportunities for a good start in the working life irrespective of their socio-economic background, the federal government initiated a free and compulsory nursery school year which children have to do at the age of 5 (the year before they start going to primary school); for this purpose a cost contribution of €140 million (70 million each for the school years 2009/10 and 2010/11) is paid. As from the school year 2009/10 nursery school in all Länder is free of charge for half a day; as from the school year 2010/11, 16 to 20 hours of nursery school on at least four days per week will be compulsory. Modalities were defined under an agreement between the federal government and the Länder according to article 15a of the Austrian Constitution (May 2009).

208. Currently, individual Länder are already offering free care in different shapes and forms: in Lower Austria, nursery school for children aged 2 1/2 to 6 is free for half of the day. In Styria, free all-day care at nursery schools has been available for children aged 3 to 6. Carinthia has free half days for those aged 3 to 6, with the last year prior to school being compulsory. As from the fall of 2009 Upper Austria and the Burgenland will offer free all-day childcare in nursery schools for children aged 2 1/2 to 6, whereas in Vienna this applies to all children aged 0 to 6.

209. The Child and Youth Advocate Offices of the Länder devised the touring exhibition “Intersecting Point – Youth without Safety Net” (“Berührungspunkt – Jugend ohne Netz”) pointing to the situation of children living in poverty or at risk of poverty (2007). Awareness-raising work by the umbrella organization Armutskonferenz and data published by Statistik Austria continues to shed light on the risks children are exposed to and the negative developments resulting from these.

210. The introduction of a means-tested minimum income is an important step towards safeguarding incomes and fighting poverty.

211. Social assistance, which is a benefit within the remit of the Länder, is available to families whose income is below a defined level. All Länder offer special measures to fight child poverty although the amounts and eligibility criteria differ. For example, the Land of *Salzburg* increase social assistance for minors *Minderjährige* by a total of 77.6 per cent between 2001 and 2009; it now amounts to €155.50 per month. In addition to this, all children receiving social assistance have been entitled to a contribution towards school materials expenses amounting to €155.50 as from the fall of 2006, which is paid upon application.

212. Vienna introduced a number of measures to reduce family poverty and mitigate the impact on children. Low-income families with small children in Vienna are given financial support in the shape of the family supplement. Non-Austrians, EEA nationals or persons of EEA status may receive the family supplement if the child lives with the family and the parents have had their main residence in Vienna for three years prior to the birth of the child. The Vienna family supplement is paid to families and lone parents for children from the child’s first birthday until he/she turns 3 years of age. The supplement is means-tested and amounts to between €50.87 and €152.61 per month.

213. Low-income families are also supported by the contribution towards meals paid by the Land of Vienna for local children aged 0–6 who are placed in free childcare and education in an approved private or municipal care facility or other approved day care as from 1 September 2009.

214. Moreover, a fixed amount per compulsory school pupil is made available to parents and legal guardians in Vienna every year as a contribution to material needed in school. To enable children from low-income families to take part in school events (summer and winter sport weeks), the families concerned are given financial support. Contributions to school meals and afternoon care at public compulsory are graded in relation to income — up to total exemption — so that Viennese children from low-income families are given access to use day care at school at an affordable rate or free of charge. The number of schools with afternoon homerooms or extramural care has been increased continuously, from 108 to 117 locations since the school year 2004/05. Out of about 80,500 pupils in primary, lower secondary and special schools, roughly 22,400, i.e. about 28 per cent of pupils, avail themselves of these offerings.

215. To improve the living conditions of children and youth by giving them more room to manoeuvre and fostering equal opportunities (social equity, gender mainstreaming, awareness of diversity etc.), enhancing their self-assertiveness, sense of self-responsibility and self-determination, and by advancing individual potentials (personal fortes, resources) Vienna invests in planning, steering, coordinating, networking, funding and quality management of child and youth work in Vienna, including administrative services (in this context, see also Chapter VIII – Education, leisure and cultural activities).

216. *Children with special needs*: for improved care of children and youth with serious disabilities the amendment to the Federal Care Allowance Act (*Bundespflegegeldgesetz*, BPGG; Federal Law Gazette I No. 128/2008, in force since 1 January 2009) stipulates that factors making childcare more difficult have to be taken into consideration. Since then the

severity supplement up to the age of 7 is equivalent to 50 hours of care, from the age of 7 to the 15th birthday of the child, it is equivalent to 75 hours. Expenditure for this is expected to amount to €0.13 to €0.16 million for the years 2009–2012.

217. Starting from 2010 parents' expenditure on care for children with disabilities is fully tax deductible up to the child's 16th birthday. In addition to the previous tax free amount for extraordinary charges of €262 per month, the totality of care expenditure will be tax exempt.

218. Austria signed the Convention on Rights of Persons with Disabilities on 30 March 2007, and ratified it in October 2008 (Federal Law Gazette III No. 155/2008); since 26 October 2008 Austria is obliged to observe its provisions. Based on section 13 of the Federal Disability Act (*Bundesbehinderterigesetz*, Federal Law Gazette No. 283/1993 as amended by Federal Law Gazette I No. 109/2008) a monitoring committee was established to ensure fulfilment of the tasks foreseen in article 33, paragraph 2 of this Convention, in the federal administration.

219. The monitoring committee was founded on 10 December 2008, it is independent and not subject to instructions, its members were nominated by the umbrella organization of the Austrian associations of persons with disabilities (NGO) and recruited from the fields of human rights, persons with disabilities, development cooperation and scientific teaching; they were appointed by the Federal Minister for Labour, Social Affairs and Consumer Protection. The Federal Ministry for Labour, Social Affairs and Consumer Protection is in charge of managing the committee's day-to-day business.

220. In the preamble of its internal rules, adopted on 1 April 2009, the committee explicitly refers to the principle of furthering children with disabilities pursuant to article 3 (h) of the Convention on Rights of Persons with Disabilities. Based on the experiences of its members, the committee has prepared a comment on the implementation of the Convention on the Rights of the Child for children and youth with disabilities and intends to communicate it to the monitoring body for the Convention on the Rights of the Child.

## **VIII. Education, leisure and cultural activities (arts. 28, 29 and 31)**

221. The Ministry of Education drew up a comprehensive report on education which is to bring the discussion about education to a factual level and more fact-based decision-making (<http://www.bmukk.gv.at/nbb09>). The report confirms the large expenditure on education of the State but at the same time points out that the budget is used inefficiently. The authors criticize the qualitative differences in the way performance is judged and find that the choice of school is not so much a decision about education but on that depends on institutional framework conditions and offerings. The experts identify major problems in the reading skills of children and youth, stating that the education system is not in a position to remove deficits, with the burden being heavier in urban agglomerations, especially in Vienna, due to the high percentage of children with a mother tongue other than German.

222. To ensure that the Report on Education will be discussed in an appropriate framework, the Education Committee of the National Council established a subcommittee on educational reform in 2009. This is where the strong points and weaknesses of the Austrian school system will be analysed in cooperation with scholars, scientists and practitioners; draft legislation will be prepared to attain more equity and equal opportunities as well as improved education for all children in Austria. Issues such as better conditions in special needs education or better integration of refugee children in the school system will also be discussed.

223. As from 2010 all children and youth up to the age of 19 will be given free admission to the seven federal museums and the National Library in Vienna. The Ministry of Education will compensate the museums for lost income in an amount of €3.1 million per year. This measure aims at instilling enthusiasm for culture in children and youth, and at an improved communication of knowledge.

224. Various federal ministries and departments of the Länder governments offer a plethora of projects where children can learn outside of school. The Ministries for Science and Technology, respectively, implement or fund projects to get children interested in science and technology. Special mention should be made of the so-called Children's University (*Kinderuni*) projects organized at several universities since 2003 (16 locations in 2009); they address children aged 7 and above and have become enormously popular.

225. The City of Vienna tries to extend a wide range of educational options via extra-curricular youth work for children and youth from the margins of society. Together with other groups, persons who are not part of the target groups, it acts according to a community-oriented approach, aiming at a better social atmosphere in certain neighbourhoods and increasing the social capital (e.g. by better conflict-resolving capacities and societal security). Societal and socio-political measures are successfully applied instead of policing methods. A tried and tested offering that has been in place for 15 years is Vienna's "park assistance" ("Parkbetreuung", see below); educational approaches are used to foster identification with public spaces and enhance a subjective feeling of safety and security. Language classes which are combined with leisure, culture and sports ["SOWIESO" — Sommer in Wien — Sprachoffensive, which translates as "Summer in Vienna Language Campaign"] children between the ages of 7 and 14 are brought up to standard to facilitate entry into school for them. Fees for two weeks amount to €20 for half-days and €50 for full days including lunches and afternoon care. A total of 1,000 places in these classes were available in the summer of 2009.

226. Child and youth work in Vienna is organized by a wide variety of associations and meets the many needs of children and youth in the city. Out of about 50 youth centres, two thirds also have offerings for children, there are four communication centres at vocational schools with social workers, leisure time activities and counselling organized by the culture and sports association KUS (Kultur-und Sportverein), two district centres run by the youth-centre association VJZ (Verein Jugendzentren) where the focus is on community work; and the association wienXtra (educational offerings for leisure and media work, cultural activities, continuing education for multipliers, counselling and information); this organization also arranges activities for children during school breaks (Wiener Ferienspiel) and the Family Days, it runs a media centre and a special movie theatre for children (Cinemagic), an information centre for children (Kinderinfo) and youth (Jugendinfo), a centre for games (Spielebox), and the Institute for Leisure Time Pedagogic (ifp).

227. Vienna's child and youth work in public spaces is mobile work, based on outreach and streetwork methods. It offers a year-round meeting point with a large share of social work and enormous flexibility in terms of time and place, addressing cliques, offering counselling, support over longer periods, streetwork, help in individual cases, crisis intervention, gender-specific work with girls/boys, project work, conflict moderation, PR and networking. Similar methods are applied by the "park assistants" ("Parkbetreuung") who work in 130 locations in all districts of Vienna.

228. This wide range of activities is funded by the City of Vienna from either central (2009: about €30 million) or decentral resources (2009: about €5.6 million); amounts budgeted for previous years were similar. Essentially, a well structured network of fora and platforms ensures high-quality work with children and youth. For even stronger networking among institutions for children and youth, a platform for children's issues, the so-called "Children's Platform", was formed in 2007. Exchange of experiences and content-related

discourse across the boundaries of departments and associations, also bringing on board the children's and youth organizations in Vienna, via. children's and youth platforms and various working groups ensures that there is an optimized flow of communication with institutions such as the School Council for Vienna, the municipal departments in charge (nursery schools, youth and family, integration and diversity) as well as police, the Social Vienna Fund, the Child and Youth Advocate Office for Vienna, etc.

229. Good practice examples in Vienna: The "Respect Campaign" (*Respektkampagne*) – the sensitization campaign started on 20 November 2007 (International Children's Rights Day) and called for respectful coexistence and careful attention when dealing with children. An important pillar of the campaign for the demand for more moral courage and positive role models in public spaces; the ideas invited Viennese residents of all age groups to join in the discourse. "I'm fine!" (*Mir geht's gut!*). In 2006 and 2007 child and youth work focused on health issues. Following the integrated approach in keeping with the WHO definition, the broad range of needs — from nutrition to sports and workout, as well as psychological support — in offerings for children and youth was looked into. On "Diversity Day" (*Tag der Vielfalt*) 2,000 young people from Vienna and the neighbouring regions in Hungary, Slovakia and the Czech Republic devoted themselves to the motto "respect unlimited", which was to encourage people to stand up against discrimination which some are affected by on grounds of their gender, ethnic origin, religion or political conviction, disability, age or sexual orientation. "Youth and Violence" (*Jugend und Gewalt*) was the title of the wienXtra meeting for more factualness, engaging with the topic "acts of juvenile violence".

230. To make sure that children are safe when they are out and about and that drivers pay attention to the needs of children, classes on child safety are obligatory for drivers' license holders who get relevant endorsements.

## **IX. Special protection measures (arts. 22, 38, 39, 40, 37 (b)–(d), 32–36)**

### **A. Unaccompanied and separated asylum-seeking children**

231. The Committee recommends that the State party: (a) ensure that guardians are systematically appointed to unaccompanied and separated asylum-seeking children and ensure that the best interests of the child are duly taken into account; (b) ensure that all interviews with unaccompanied and separated asylum-seeking children are carried out by professionally qualified and trained persons; (c) provide for adequate accommodation taking into account the state of development of all unaccompanied and separated asylum-seeking children; and fully take into account the principle of the best interest of the child when deciding, on the deportation of unaccompanied and separated asylum-seeking children and to avoid their placement in custody pending deportation (CRC/C/15/Add.251, paras. 47–48).

232. The interests of unaccompanied minor asylum-seekers are safeguarded in section 16 of the Austrian Asylum Act (AsylG). Special provisions in keeping with their age and stage of development apply to unaccompanied minors. Basic care is provided by the "Traiskirchen Youth Project" ("Jugendprojekt Traiskirchen"), a federal care unit at the Care Centre East specially established to fulfil the needs of youth. When all organizational units in charge of providing care to aliens seeking protection meet for their regular exchange of information every week, the special protection requirements of unaccompanied minors play a significant role. Unaccompanied minors are also given appropriate accommodation within the care system.

233. Custody pending deportation of minors is always only the last resort when the statutory tasks of aliens' police are fulfilled. As a rule, "more lenient means" are applied. Underage minors must not be taken into custody pending deportation. Pursuant to section 79, paragraph 2, of the Aliens Police Act (FPG) aliens under the age of 16 may only be taken into custody pending deportation if they can be given accommodation and care that are appropriate for their age and development.

234. In Lower Austria, care facilities with the required features were established in cooperation with relevant NGOs so that unaccompanied minor aliens assigned to Lower Austria can be offered good care.

## **B. Economic exploitation, including child labour**

235. The Committee reiterates its previous recommendation (CRC/C/15/Add.98, para. 28) that the State party amend its domestic legislation in order to raise the age of 12 in accordance with the standard of the ILO Convention No. 138 (CRC/C/15/Add.251, paras. 49–50).

236. A change in the relevant provisions will be discussed on the occasion of the amendment of the Federal Act on the Employment of Children and Youth (Bundesgesetz über die Beschäftigung von Kindern und Jugendlichen 1987, KJBG).

237. Information provided in the second periodic report about restrictions for easy work can be complemented as follows: children above the age of 12 may only be employed outside the time reserved for school attendance (a) if work is done in operations exclusively employing family members of the owner of the business; or (b) if work is done in the child's own private household, or (c) if work consists of errands, acting as a helping hand on sports fields and playgrounds, gathering flowers, herbs, mushrooms and fruit, or equivalent activities, provided that it is easy and occasional work. Children must not be employed regularly (e.g. every day) because this is no longer defined as "occasional work" and therefore prohibited.

238. Moreover, children must only be allowed to do easy occasional work under the following circumstances: (a) there is no risk to their physical and mental health and development or morals, if they are not exposed to accident risks and the detrimental effects of heat, cold or wet surroundings or of substances hazardous to health, or radiation, dust, gases or vapours; (b) they are not impeded from attending school and the opportunity of following tuition in a beneficial way, and they are not obstructed in the fulfilment of their religious rights and obligations, (c) on school days and days off from school, they are not engaged for more than two hours, and the total number of hours devoted to school and easy work does not exceed seven. Employment of children in occasional easy work is generally prohibited on Sundays and public holidays as well as between 8 p.m. and 8 a.m., and it requires the consent of the legal guardian of the child.

## **C. Sexual exploitation, pornography and trafficking**

239. The concluding observations and recommendations of the Committee (CRC/C/15/add.251, paras. 51–52) are responded to in Chapter XII (D) and (E) below on the Optional Protocol on the sale of children, child prostitution and child pornography.

## D. Juvenile justice

240. The Committee recommends that the State party: (a) ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee's day of general discussion on the administration of juvenile justice, held in 1995; [...] in this regard, undertake the following particularly recommended measures: (i) Alternative measures for detention, including pretrial detention, should be strengthened and applied as much as possible in order to ensure that this deprivation of liberty is really a measure of last resort for the shortest time possible (CRC/C/15/Add.251, paras. 53–54).

241. In case of juvenile delinquency, the Austrian penal laws for juveniles stipulates a broad range of reactions by the State, apart from fines and prison terms; these include the possibility of waiving prosecution without any further State intervention, intervention and socially constructive measures within the framework of diversion alternatives such as small fines, the discontinuation of criminal proceedings on probation, possibly linked with parole requirements and voluntary fulfilment of certain obligations, mediation and victim compensation as well as community service.

242. In juvenile delinquency, the public prosecutor's office may waive its right to prosecute if no further measures of special prevention are needed to keep the perpetrator from committing punishable acts and the act is liable to punishment with a fine or a maximum prison term of 5 years (in this respect, the equivalent maximum penalty for adults would be 10 years, 5 years refers to the penalties reduced to half the actual terms for juvenile offenders). In 2005 975 criminal proceedings instituted against juvenile offenders were discontinued under this provision. This is an increase of 23.4 per cent over the year 2000, when prosecutors waived their right to prosecute in 790 cases.

243. Another substitute for sanctions in criminal proceedings against juveniles is the option to waive the pronouncement of a penalty at all or to suspend the verdict of guilty for 3 years of probation if it can safely be assumed that the potential guilty verdict or the threat of a penalty alone is enough to keep the juvenile from committing further punishable acts. In 2007 the option of passing a guilty verdict whilst reserving the right to sentence for the time being was used in 427 cases of convicted juveniles; in 63 cases the juveniles were found guilty but not sentenced. The aim is to exclusively show the juvenile offenders the wrongfulness of their acts without however actually punishing them.

244. The subsequent determination of a penalty in case of a guilty verdict whilst reserving the right to sentence a juvenile is only foreseen for cases in which juveniles are convicted of a new punishable act during probation if it is deemed indicated that a compounded sentence for the new and, the previous offence will keep the perpetrator from committing further punishable acts. The penalty may also be pronounced in cases where the juvenile does not follow an instruction of the court during the period of probation or persistently evades the authority of the probation officer.

245. Since 1 January 2008 the public prosecutor may consider diversion in the form of a fine, community service, discontinuation of proceedings on probation or victim compensation in all juvenile offences, including those to be tried by a panel of professional and lay judges, or by jury. The prerequisites are that the defendant's culpability is not too serious and that the act did not cause the death of a person, unless a family member of the defendant was killed by negligence and the act does not need to be punished in view of the serious impairment which such guilt represents to the culprit. In 2007 33,068 police reports



were filed against juvenile delinquents, which resulted in a total of 3,084 convictions. By contrast, 4,978 proceedings were discontinued with final effect under the diversion alternatives. In 594 cases fines had to be paid, 1,569 cases ended in community service, 393 proceedings were discontinued on probation and assignment of a parole officer or voluntary duties, 1,408 cases were concluded by victim compensation out of court and 1,014 proceedings were dropped on probation.

246. In 2006, a total of 2,889 convictions of juveniles resulted in unconditional sentences in 209 cases and partly suspended sentences in another 209 proceedings; thus, 418 prison sentences had to be served at least in part. By contrast, a total of 3,084 convictions lead to unconditional prison terms in 215 cases and partly suspended terms in 182 cases in 2008. In spite of a 6.7 per cent increase in the number of convictions, the number of prison terms declined by 5.0 per cent from 2006 to 2007. Comparing the years 2006 and 2007, the percentage of prison terms in the total of all convictions also declined. Whilst the share of unconditional and partly suspended prison sentences in the total number of convictions was 7.2 per cent each in 2006, the share of unconditional sentences went down to 7.0 per cent and the percentage of partially suspended terms decline to 5.9 per cent in 2007.

247. The tendency to sanctions linked with confinement is declining on the whole. This is also true of the number of persons reporting to prisons to serve a term: in 2006 a total of 711 youth were in pretrial detention and were transferred into corrective detention from there whilst 24 young persons reported to prison for corrective detention after having been at large previously. In 2007 the number of young persons taken into pretrial detention declined to 675 and out of the 3,208 persons who reported to prison to serve their time, 23 were juveniles.

248. As regards the recommendation of the Committee to take appropriate measures to promote the recovery and social reintegration of children involved in the juvenile justice system in the light of article 40, paragraphs 1 and 4, and to ensure adequate education and facilitation of reintegration in the society (c), it is stated that the Austrian penal legislation pertaining to juveniles primarily aims at preventing juvenile delinquents from committing further punishable acts, and to enable their reintegration in society by specific responses of the State that are adjusted to the individual offence and the person concerned. Under this approach, problems of juvenile delinquency are not exclusively dealt with using the instruments of penal law, and the detrimental effects of unconditional sentences are to be avoided as much as possible by largely foregoing the application of repressive means.

249. The application of provisions governing diversion alternatives as well as options to respond and sanction which only, exist in juvenile penal legislation are to ensure the full implementation of the requirements of the Convention as regards juvenile justice, in particular compliance with article 37 and article 40, paragraphs 1 and 4.

250. Court and public prosecution are obliged to drop charges when the statutory requirements are met and diversion alternatives can be applied. If the court fails to drop the charges although all prerequisites for diversion alternatives have been fulfilled, this is a violation of the law and a plea of nullity can be entered against the sentence. As the court has the independent powers to drop charges and as the option of taking recourse to diversion alternatives can also be reviewed by higher instance courts, the application of diversion alternatives in case of fulfilment of statutory requirements is guaranteed.

251. In pretrial detention, the question of proportionality is of tantamount importance; juveniles must be released if the purpose of arrest and pretrial custody can also be achieved by orders under family law, possibly in combination with more lenient means. Remand in pretrial detention is only legitimate if the drawbacks it has for the development of the juvenile's personality and the juvenile's advancement is not disproportionate in relation to the seriousness of the offence and the penalty to be expected.

252. Pretrial detention for juveniles is subject to special restrictions as to time. The maximum period allowed up to the beginning of the main trial is three months, unless the case involves a panel of professional and lay judges or a jury. If a case falls within the remit of a panel of professional and lay judges or a jury, pretrial custody may last up to six months and may even be extended to a maximum period of one year if this is unavoidable due to the special difficulties or scope of investigations in view of the seriousness of the crime. The restrictions concerning the term of custody and the strict requirements for arrests, the imposition of pretrial detention and remand in pretrial detention are to ensure that custody is only a last resort in all cases involving juveniles and should only be imposed for as brief a period as possible.

253. As regards the Committee's recommendation that persons under 18 in detention should be strictly separated from adult detainees, also during daytime activities, it is stated that under the Juvenile Court Act (JGG), juvenile detainees and adult detainees have to be separated unless the special state of juveniles calls for an exception from this rule. Exceptional common detention for juveniles and adults is thus only foreseen in cases where this serves the protection of juveniles. As a matter of principle, juveniles are detained separately from adults even if they are within the same prison compound. Moreover, special rules in the enforcement of sentences apply under the Juvenile Court Act as juveniles must in any event be separated from inmates whose influence may be harmful. Austria has a separate prison for juvenile delinquents and juvenile wards in prisons to cater for the enforcement of sentences.

## **X. Follow-up and dissemination**

254. The Committee recommends the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers, the Federal Assembly, and to Länder governments and parliaments for appropriate consideration and further action. The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding, observations it adopted, be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring. (CRC/C/15/Add.251, paras. 56–58).

255. Immediately after publication of the concluding observations by the Committee on the Rights of the Child, the Ministry for Family and Youth translated these and handed it to the Council of Ministers (submission to the CoM, MRV 84/13, 2005) as well as the relevant regional administrative bodies, requesting them to comply with the recommendations within their respective remits.

256. The Family Minister invited the members of the delegation (representatives of several ministries) and NGOs participating in the review of the report to attend a round of follow-up discussions (7 March 2005).

257. The website of the federal government on the rights of the child, all the Austrian periodic reports, the written replies to additional questions of the Committee, the "shadow reports" of NGOs and the concluding observations of the Committee on all reports discussed so far have been published and can be accessed at [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at).

## XI. Optional Protocol on the involvement of children in armed conflict

258. In respect of the recommendations made by the Committee in its concluding observations on the initial report (CRC/C/OPAC/AUT/1) concerning the implementation of the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/CO/2 of 28 January 2005), the following comments are submitted.

259. As explained in the initial report, Austria ratified the Optional Protocol without reservation but stated the following pursuant to article 3, paragraph 2, of the Optional Protocol: “Based on Austrian law in force, the minimum age at which persons may be recruited voluntarily by the Austrian Federal army has been reached when a person is past his/her seventeenth birthday. According to section 15 in conjunction with section 65c of the Austrian Defence Act (Wehrgesetz 1990), the *voluntary enlistment of a person* under the age of 18 but past his/her seventeenth birthday *is only permitted with the express consent of the legal representative*. The provisions of the Austrian Defence Act 1990 and the instruments of the federal constitution protecting subjective legal rights ensure the protection of voluntary recruits under the age of 18. Further safeguards are based on the strict adherence to the rule of law, good governance and effective protection of rights.” (Section 15 of the Defence Act 1990 corresponds to section 9, Defence Act 2001 (WG 2001), Federal Law Gazette I No. 146, whereas section 65c of the Defence Act 1990 corresponds to section 57 WG 2001).

260. As the Convention was implemented, the Defence Act 1990 was amended in 2000, Federal Law Gazette I No. 140, and the following sentence was added to section 47, paragraph 2, Defence Act 1990 (now section 41, paragraph 2, Defence Act 2001): “It is not permitted for soldiers under the age of 18 to be directly involved in hostilities during a mission.”

261. To ensure that soldiers under the age of 18 will not be directly involved in hostilities, two amendments to the Act on Missions Abroad (Auslandseinsatz-gesetz, AusIEG 2001). When the AusIEG 2001 was revised in Federal Law Gazette I Nr. 55, the last sentence in section 2, paragraph 2, introduced the minimum age of 18 for volunteers on missions abroad in accordance with the Optional Protocol (as for the specific legal provisions, please refer to the initial report (CRC/C/OPAC/AUT/1).

262. In the course of adopting the Act amending Defence Legislation 2005 (Wehrrechtsänderungsgesetz, WRÄG 2005), Federal Law Gazette I No. 58, the following last sentence was added to section 1, paragraph 1, of the Act on Missions Abroad (AusIEG 2001): “It is not permitted to deploy soldiers under the age of 18 on missions abroad.” This way, it was ensured that the legal protection on grounds of age also applies to those soldiers who do not volunteer but are employed by the Federal Army and could be assigned to missions abroad in the framework of their employment contract (see section 1, paragraph 1, subparagraph 1, AusIEG 2001).

263. Thus, the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict have been fully taken into account. The option for young persons to volunteer for early military service at the age of 17 with the express consent of their legal representative has in particular been retained because young persons who start training as an apprentice after compulsory school may complete their vocational training at the age of 17 and are unable to start working in gainful employment before they have done their military service. It seems inequitable to keep young persons out of employment for half a year or longer to wait for military service. The option to do early military service exists especially for these young people. The Austrian

Federal Army does not advertise early military service actively and does not promote the recruitment of persons under 18 in any way.

264. As for the recommendation that Austria report in more detail about the general aims of education and training at the *Militärrealgymnasium* in Wiener Neustadt, (CO-OPAC: 7–8) it is stated that the *Militärrealgymnasium* Wiener Neustadt is a higher secondary school with a focus on natural sciences and a boarding school organized according to military principles. The *Militärrealgymnasium* falls within the remit of the Ministry of Education. Education is organized along civilian lines under the provisions of the School Education Act (Schulunterrichtsgesetz), as amended, as regards the curriculum, tuition by civilian teachers, etc. The boarding school is managed by the Federal Ministry of Defence and offers training in accordance with military principles. Extra-curricular activities focus on sports in general, fencing, climbing, horseback riding, orientation run, judo, military drills, small arms training, alpine training. The pupils of *Militärrealgymnasium* are thus given an opportunity of completing secondary academic school with a (civilian) leaving certificate whilst also obtaining pre-military training.

265. The Committee's recommendation that the Convention on the Rights of the Child and the Optional Protocol be made known to relevant professional groups, in particular military personnel (CRC/C/OPAC/AUT/CO/1, para. 10), is being implemented, as the continuing, education and training programmes of petty officers and officers include modules on "International Law" which cover the Convention and its Optional Protocols. Basic training, continuing education and further training of officers and petty officers is based on the principle of "Lifelong Learning" and lasts throughout their professional career.

266. In addition to such basic qualification, all soldiers to be assigned to a mission abroad, undergo detailed special training adapted to the area they are to be deployed in when they are prepared for the mission; alongside the military preparation they are also informed of the culture; religion and legal situation of the people, and the children in the region. Moreover, special training is organized on child trafficking.

## **XII Optional Protocol on the sale of children, child prostitution and child pornography**

**Report on the recommendations made by the Committee in its concluding observations on the initial report (CRC/C/OPSC/AUT/1) concerning the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/AUT/CO/1) on 3 October 2008.**

### **A. Data**

267. The Committee recommends that a comprehensive data collection system be established in order to ensure that data on sale, trafficking, child prostitution and child pornography are systematically collected and analysed, and disaggregated by, inter alia, age and sex, as they provide essential tools for measuring policy implementation (CRC/OPSC/AUT/CO/1, paras. 6–7).

268. The collection of reliable and comparable data on OPSC issues is a major challenge worldwide. In respect of human and child trafficking Austria supports activities within the EU to develop guidelines and standards of data collection. In this context, Austria managed a project in cooperation with the International Organization for Migration (IOM) and five other EU member States, Europol, Frontex and the International Centre for Migration Policy Development (ICMPD), presenting the result in the spring of 2009 at an

international conference. The guidelines established in this framework will now be used in another project in cooperation with other EU member States.

269. The Federal Criminal Intelligence Office (*Bundeskriminalamt, BKA*) intends to modernize the Austrian crime statistics regime in close cooperation with scientists and external experts. In the future it is, inter alia, to enable a comparison between the statistical data collected by the judiciary and police, to make more targeted statements about trends and developments, to institutionalize research of motives, dark fields and other factors underlying crime. By further developing crime statistics, acceptance and transparency are to be enhanced even more. At present, the project is in the planning stage.

270. For some time, the Federal Ministry of Justice has been working on an improved statistical reflection of work in the justice system which also includes measures and sanctions in juvenile justice. One weakness in this context is the fact that data on proceedings are primarily collected on the basis of perpetrator and offence related criteria, not according to victim; characteristics, perpetrator-victim relationships or modes of operation. In the area of judicial prosecution and conviction statistics Austria currently only has perpetrator-related data regarding sexual offences to the detriment of minors but no disaggregated victim data.

271. The improved regime of cases completed by the justice system should also fulfil the requirements of data collection concerning criminal phenomena independent of offences, and the specific collection of victim characteristics, victim-perpetrator relationships and modes of operation. This would also make it possible to have a broader statistical picture and reflection of the sale of children, child prostitution and child pornography. However, this will require major changes of the current statistical regime and can only be done in a long-term project.

272. The Working Group on Child Trafficking identifies the number and origin of children who are (presumed to be) affected by this punishable act and are in the care of youth welfare institutions. The report of the Working Group (2007–2009) contains the cases identified by the youth welfare institutions of the Länder and police. The Working Group seeks to improve the identification of potential victims by involving and training all relevant professional groups whilst also trying to improve the availability of data.

## **B. General measures of implementation**

### **National Plan of Action**

273. The Committee recommends that the State party take all necessary measures to ensure the implementation of the specific obligations arising from the Optional Protocol in its national strategies and programmes, in consultation and cooperation with relevant stakeholders, by taking into account the Declaration and Agenda for Action (A/51/285) adopted at the World Congress against Commercial Sexual Exploitation of Children in Stockholm in 1996 and the Global Commitment (A/S-27/12) adopted at the Second World Congress against Commercial Sexual Exploitation of Children in Yokohama in 2001 (CRC/OPSC/AUT/CO/1, paras. 8–9).

274. The federal government approved the National Action Plan against Human Trafficking (NAP-MH 2007–09) coordinated by the Human Trafficking Task Force after a process concluded with a comprehensive report (the report by the Working Group on Child Trafficking was part of the submission to the Council of Ministers). The Human Trafficking Task Force continued working on the next related national plan of action, the NAP-MH 2009–11, which also contains measures to prevent the sale of children and protect the victims of such acts. Both plans were drawn up with support and cooperation from numerous ministries, the governments of the Länder and NGO representatives. The

implementation of the Action Plans is followed through by the Human Trafficking Task Force and the Working Group on Child Trafficking, in which all relevant victim organizations are also presented.

#### **Coordination and evaluation**

275. The Committee recommends that the State party establish a permanent mechanism with the mandate to coordinate and evaluate the implementation of the Optional Protocol, including at the provincial and national levels, with the active and systematic participation of children, including the Federal Youth Council. Furthermore, it is recommended that the State party provide the coordinating mechanism with a specific and adequate mandate, as well as sufficient human and financial resources to enable it to be fully operational (CRC/OPSC/AUT/CO/1, paras. 10–11).

276. To ensure regular and coordinated exchange of experiences and information on the sale of children, the resolution of the Council of Ministers dated 28 March 2007 created a working group within the Human Trafficking Task Force. The working group brings together representatives of the ministries in charge, the governments of the Länder and NGOs (i.e. UNICEF, ECPAT, IOM Austria) to discuss measures of prevention and victim protection. The working group disseminates information on its work and the current legal situation as well as its 51 ongoing activities in its report on activities which is published on the websites of the Ministry of Youth and the Ministry for European and International Affairs.

277. As for the issue “sexual exploitation of children”, the Youth Ministry formed an interdepartmental working group in the summer of 2009. Members of the group include representatives of the relevant ministries (Justice, Interior, Women, Education). The working group’s task is to discuss the recommendations in the final declaration of the Third World Congress against Sexual Exploitation of Children and Adolescents held in Rio de Janeiro in 2008, coordinate related activities, initiate necessary measures and evaluate the process. The working group will complement the work done by the Working Group on Child Trafficking, which has also been active within the framework of the Human Trafficking Task Force at the Youth Ministry since 2007.

278. In the run-up to the Third World Congress against Sexual Exploitation of Children and Adolescents (Rio de Janeiro, November 2008) the Federal Ministry for European and International Affairs (BMeiA) organized a preparatory conference in cooperation with the Ministries of Justice, Interior, Family and Youth (BMWFJ), as well as Social Affairs, UNICEF Austria and ECPAT Austria (2 October 2008), at which the attendees discussed all aspects of the Optional Protocol. The outcomes of the meeting were published alongside the reports of the Human Trafficking Task Force and the Working Group on Child Trafficking on the websites of the BMeiA and the BMWFJ.

#### **Dissemination and training**

279. The Committee recommends that the State party allocate adequate and sufficient resources to the development of training materials and courses on the Optional Protocol, in all parts of the country and for all relevant groups of professionals including social workers, police officers, public prosecutors, judges, medical staff, immigration officials and other professionals involved in the implementation of the Optional Protocol. Furthermore, in light of article 9, paragraph 2, the Committee recommends that the State party make the provisions of the Optional Protocol widely known, particularly to children and their families, through, inter alia, the media, school curricula and long-term awareness-raising campaigns in different languages and in a simplified manner, on the preventive measures and harmful effects of all offences referred to in the Optional Protocol. In this regard, the

participation of the community and, in particular, children, including child victims, should be encouraged (CRC/OPSC/AUT/CO/1, paras. 12–13).

280. The Working Group on Child Trafficking developed a folder which was distributed among members of the professional groups stated in the recommendation (1st run: 10,000 German and 1,000 English copies). Its aim is to raise awareness to the fact that Austria is concerned by the sale of children and to facilitate the identification of victims so as to ensure victim protection.

281. Since 2008 an obligatory fundamental rights seminar for judges and public prosecutors is offered several times a year; special materials and teaching aids have been developed for it (textbook for the training of candidate judges in fundamental human rights). Whenever possible, judges and public prosecutors are also given opportunities to take part in external events in Austria and abroad on issues relating to the Optional Protocol on the sale of children, child prostitution and child pornography.

282. On the occasion of the EU Anti-Trafficking Day the Federal Ministry for European and International Affairs will organize an event on 18 October 2009; this time, the highly publicized event will be devoted to the sale of children.

283. *Länder*: Some Child and Youth Advocate Offices (KiJA) organize workshops on the rights of the child at schools, informing children about their rights, encouraging and strengthening them so that they become self-assertive enough to defend themselves against violations of their rights. KiJA Upper Austria has moreover reported that the issues from the Optional Protocols were used in the continuing education of pedagogues and in general adult education.

284. In working parties with institutions assisting children, KiJA Upper Austria fosters exchange of information to enhance continuous further training. There are round tables for persons providing victim support in court proceedings and the Cooperations Forum Upper Austria which serve as meeting points for various professional groups with a view to improving cooperation and quality.

### **Independent monitoring**

285. The Committee recommends that the State party strengthen the Child and Youth Advocate Offices, with the mandate to monitor the implementation of the Convention and its Optional Protocols, and to ensure that they are sufficiently and evenly staffed and funded across all provinces (CRC/OPSC/AUT/CO/1, paras. 14–15).

286. Between 1989 and 1995 Child and Youth Advocate Offices (KiJA), organizational units of the Länder administrations not bound by instructions, were created in all Länder under the Federal Act on the Principles of Youth Welfare (Bundesgrundsatzgesetz zur Jugendwohlfahrt, 1 July 1989). The KiJAs have continued to develop their profile; at the start they were low-threshold counselling institutions. Now they represent the interests for children and youth, in charge of awareness-raising and lobbying for the implementation of the United Nations Convention on the Rights of the Child. The KiJAs are involved in supporting the federal government in the development of measures, and in some, the contribution of the KiJAs can be clearly identified, e.g. in the support of minor victims of violence in court proceedings and the model project “children’s counsellors in custody proceedings”. As the KiJAs developed from a low-threshold counselling institution to an independent ombud organization, this is also to be reflected in federal legislation. At present preparations for a federal act on support for children and youth (Bundes-Kinder- und Jugendhilfegesetz) are underway which should formulate related tasks in broader terms. Draft legislation considers counselling and mediation, awareness-raising concerning the rights of the child, representation of interests as well as national and international networking to be the main duties of the organization. Although the KiJAs do not have an

official mandate to monitor the implementation of the Convention, they actually fulfil this task informally, which is also reflected in the independent report on the implementation of the Convention and the Optional Protocols in Austria submitted to the Committee.

**C. Prevention of the sale of children, child prostitution and child pornography  
(art. 9, paras. 1 and 2; art. 35 of the Convention)**

**Measures adopted to prevent offences prohibited under the Optional Protocol**

287. The Committee recommends that the State party allocate sufficient resources to preventive measures against the sale and trafficking in children and that these measures be carried out in collaboration with relevant international and civil society organizations. Furthermore, the Committee encourages the State party to adopt a more comprehensive approach to tackling the issue of the sale of children, child prostitution and child pornography by incorporating prevention, recovery and reintegration measures (CRC/C/15/Add.251, paras. 51–52; CRC/OPSC/AUT/CO/1, paras. 16–19).

288. The two working groups mentioned in the response to recommendations 10–11 are inter alia also in charge of developing preventive measures and following a comprehensive approach in doing so.

289. International cooperation to fight the sale of children, child prostitution and child pornography is supported by numerous bilateral and multilateral agreements on extradition and mutual legal assistance in criminal matters which, also apply to the sale of children and the sexual exploitation of children (e.g. the European Convention on Extradition of 13 December 1957 including the 2nd Optional Protocol of 17 March 1978 as well as — among EU member States — Framework Decision on the European Arrest Warrant (EAW) and the handover procedure between member States of 13 June 2002, OJ L 190/2002, the European Convention on Mutual Legal Assistance in Criminal Matters of 20 April 1959 including the Optional Protocol of 17 March 1978 and — again, among EU member States — the Convention on Mutual Assistance in Criminal Matters between members States of the European Union of 29 May 2000, OJ C 197/2000).

290. During the period under review, the Ministry of Economy engaged in numerous activities in keeping with the recommendations in its drive to implement the Code of Conduct of the World Tourism Organization (UNWTO). Awareness-raising measures were developed in cooperation with the relevant NGOs (ECPAT Austria and *respect*) and discussed by the “Round Table – Ethics in Tourism” founded in the Ministry of Economy in 2005, which brings together NGOs, the tourism industry and other representations of interest.

291. To disseminate the global code of ethics, the Ministry of Economy and *respect* authored information brochures which were sent to the relevant players in the tourism industry to facilitate implementation of the UNWTO recommendations for action (2004/05). At vocational schools poster competitions and panel discussions on the topic “Protecting children in tourism” were organized (school year 2006/07). The Ministry of Economy commissioned ECPAT Austria to prepare more information material or travel agencies and tour operators (2007/08): informative maps to be handed to travellers with their travel documentation, templates for travel catalogues and websites. Moreover, didactic material for vocational schools, tourism VET on the middle and higher levels and other training institutions (courses, non-degree programmes at universities for applied science and universities) reaching out to 60 institutions of education and training. With the support of the Ministry of Economy, the working group “Business and Schools” published a media package entitled “Tourism and Leisure Industry” thematizing the issues “Ethics in tourism”



and in particular “Sexual exploitation of children” (2008) ([http://www.bmwfj.gv.at/BMWA/Downloads/Publikationen/Touris~mus/medienpaket\\_tourismus.htm](http://www.bmwfj.gv.at/BMWA/Downloads/Publikationen/Touris~mus/medienpaket_tourismus.htm)).

292. In the framework of the ongoing EU project “OFFENDERS BEWARE – Raising Awareness, Capacity and Motivation for the Protection of Children from Commercial Sexual Exploitation in Tourism” (2008–2011) information events have so far been organized at 10 schools. Further train-the-trainer programmes which educate teachers as regards using the available materials, and workshops at tourism schools are also offered. The project is supported by the European Commission, Austrian Development Cooperation and the Ministry of Economy. It is carried out by *respect* and ECPAT Austria. At the “Holiday Fair” in Vienna (a fair addressed to consumers), a twenty-minute film entitled “Sexual Abuse of Children in Tourism” produced in the framework of the EU project “Offenders Beware” was presented in 2009.

293. During the 2006 EU Presidency, Austria addressed the issue of sexual abuse of children in tourism at the conference of Tourism Ministers.

294. To expand the capacities of police and other persons when it comes to registering complaints and investigating cases of trafficking and sexual exploitation whilst respecting the feelings of children, staff of both police and the judiciary are offered continuing education in respect of the fight against the sale of human beings (particularly children) and against sexual exploitation.

295. Since 2008 candidate judges undergoing basic training may do part of their internship (at least two weeks) in a so-called “victim protection and welfare institution”. Moreover, cooperation and coordination of the justice and law enforcement systems, victim protection institutions and intervention units as well as prevention of violence and legal provisions on protection for victims are part of the final exam for candidate judges (judges’ exam).

296. The public prosecutor’s offices also offer various continuing education and training courses; moreover, as from 1 January 2008, there is a regulation saying that the head of a public prosecution unit with at least 10 permanent positions for public prosecutors has to entrust one or more specially trained prosecutors with proceedings for violence in close relationships (domestic violence, violence against children).

297. As for the recommendation that appropriate victim protection and reintegration programs and services should be made available to children who are victims of sale, prostitution and pornography, please refer to information in respect of paragraph 38 (c) of CRC/C/15/Add.251.

#### **D. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4 (paras. 2 and 3); 5; 6 and 7)**

##### **Existing criminal or penal laws and regulations**

298. The Committee recommends that the State party take further measures to bring its Criminal Code into full compliance with article 3 of the Optional Protocol, including the provisions on child pornography as defined in article 2 (c). In particular, the Committee recommends that the State party: (a) criminalize the possession of child pornography, including virtual pornography, involving children between 14 and 18 without requiring the intent of dissemination and regardless of the minor’s consent; (b) amend the definition of child pornography to include cartoon representation of children; (c) ratify the Council of Europe Convention on Cybercrime, signed by the State party in 2003, and the Convention

on the Protection of Children against Sexual Exploitation and Sexual Abuse, signed by the State party in 2007 (CRC/C/15/Add.251, para. 52; CRC/OPSC/AUT/CO/1, paras. 20–21).

299. The provision found in section 207a of the Austrian Criminal Code conforms with the requirements of the more recent Council Framework Decision on combating the sexual exploitation of children and child pornography (art. 3) and the reservations allowed under Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (art. 20, para. 3). This issue is however being discussed at EU level with a view to proposing a Framework Decision on combating the sexual abuse and sexual exploitation of children as well as child pornography (DROIPEN 16); Austria will, of course, seek to continue complying with her international obligations.

300. The definition of child pornography in Austria concurs with the more recent Council Framework Decision on combating the sexual exploitation of children and child pornography; the new proposal for a Framework Decision on combating the sexual exploitation of children and child pornography also requires realistic depictions for the elements of the offence to be present.

301. The ratification of both Council of Europe Conventions has already been initiated. In terms of content it has been implemented almost completely, with some points of detail still having to be reviewed.

#### **Legal aspects of adoption**

302. The Committee recommends that the State party take all necessary measures to ensure that the national legislation complies with articles 2 and 3 of the Optional Protocol, and in particular, that the definition of sale (article 2 (a)) and improperly inducing consent in cases of adoption (art. 3, para. 1 (a) (II)), as stipulated in the Optional Protocol, are incorporated into the legislation (CRC/OPSC/AUT/CO/1, paras. 22–23).

303. Austria was strongly involved in developing standards for the new European Convention on the Adoption of Children. These were integrated into Austrian legislation in the Family Law Amendment Act (*FamRÄG* 2009), including the consent to adoption of prospective adopted children over 14 years of age, and the mandatory criminal record checks into the extended family of the prospective adoptive parents prior to adoption decisions.

304. Austria seeks to improve the adoption law for the benefit of the adoptive child by closer cooperation between the authorities and mutual checks as well as a procedure of recognition for adoption decisions made abroad (optional procedure in problematic cases).

305. In spite of the fact that section 194 of the Austrian Criminal Code is currently believed to be sufficient legislation pertaining to adoption trading, Austria is contemplating to adapt section 194 in keeping with the recommendation concerning article 3, paragraph 1 lit a sublit ii.

306. Moreover, the federal act on support for children and youth (*Bundes-Kinder-und Jugendhilfegesetz*), which is at present in the preparatory stage, will also contain more detailed rules on the tasks and standards for intermediaries in Austrian adoptions and their participation in cross-border adoptions.

#### **Jurisdiction and extradition**

307. The Committee recommends that the State party take all necessary practical measures to effectively establish jurisdiction over offences, in accordance with article 4 of the Optional Protocol, bearing in mind that double criminality is not required under the Optional Protocol (CRC/OPSC/AUT/CO/1, paras. 24–25).

308. Unlike what the concluding observations say, Austrian jurisdiction in matters of white-slave traffic (sec. 104 Criminal Code), trafficking in human beings (sec. 104a Criminal Code) and cross-border trafficking for the purpose of prostitution (sec. 217 Criminal Code) is not only restricted to cases in which Austrian interests are violated but also applies in cases where the perpetrator cannot be extradited (sec. 64, para. 1, sub-para. 4 Criminal Code). Requirements do not all have to be fulfilled; one individual element is enough for Austria to have jurisdiction. Austrian interests are especially deemed to have been violated if the victim is an Austrian; one reason why a perpetrator cannot be extradited is Austrian nationality.

309. Moreover, certain offences may be punished in Austria under section 64, paragraph 1, sub-paragraph 4a Criminal Code (CC) — without any regard to Austrian interests or the extraditability of the perpetrator — if the perpetrator is Austrian and has his/her habitual residence in Austria. These offences include serious sexual abuse of minors (sec. 206 CC), sexual abuse of minors (sec. 207 CC), pornography depicting minors (sec. 207a, para. 1 and 2 CC), sexual abuse of youth (sec. 207b, para. 2 and 3 CC) and promoting the prostitution and pornographic depictions of minors (sec. 215a CC).

310. In very general terms, Austria assumes that the determination of jurisdiction continues to be left to the discretion of the member States unless domestic jurisdiction is called for without the need for an offence to be punishable in the country where the crime scene is located.

## **E. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)**

### **Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol**

311. The Committee recommends that the State party create a nationwide policy on coordination, care and support for the child victims of sale; ensure that sufficient resources are allocated in order to strengthen social reintegration and physical and psychosocial recovery measures; develop and implement a comprehensive policy that includes an effective reporting and referral system of all cases of child victims of offences under the Optional Protocol, with necessary provisions for child-sensitive investigations of such cases; ensure that all bilateral agreements on repatriation are strictly guided by the principle of the best interest of the child, and that sufficient resources are allocated for the adequate monitoring and thorough follow-up of cases of repatriated children; guarantee that all child victims of the offences described in the Optional Protocol have access to adequate procedures and to seek, without discrimination, compensation for damages from those legally responsible (CRC/OPSC/AUT/CO/1, paras. 26–30).

312. As for the recommendation to create a nationwide coordinating institution, please refer above to the comments on paragraphs 51–52 contained in CRC/C/15/Add.251 and 16–19 contained in CRC/C/OPSC/AUT/CO/1. The development of a National Reporting and Referral System for victims of the sale of children is being discussed in the Working Group on Child Trafficking.

313. In terms of measures adopted to protect victims of sexual violence, e.g. free legal and psychosocial support to victims of violence in court proceedings, the promotion of child protection institutions, institutions of youth welfare providing care to victims of sexual violence and child trafficking, these were already the subject matter of earlier reports and have also been mentioned in this report (e.g. Report of the Working Group on Child Trafficking 2007–09).

314. To support victims of child trafficking in criminal proceedings, those who are entitled under the Code of Criminal Procedure, are given psychosocial and legal support in court, which enables them to assert their claims as private plaintiffs in criminal proceedings. Moreover, in the Second Act on Protection from Violence (2. Gewaltschutzgesetz), the legal entitlement to psychosocial support in court was, as from 1 June 2009, extended to civil proceedings which are closely connected to the subject matter of the original criminal proceedings, to the extent that this is necessary to safeguard the procedural rights of the victim whilst taking the victim's personal concerns into account as far as possible.

315. The obligations under article 9, paragraphs 3 and 4 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography have been fulfilled in existing legislation governing private plaintiffs in criminal proceedings, general legal provisions on damages and the Act on the Protection of Victims of Crime. The report of the European Commission on the application of Council Directive 2004/80/EC relating to compensation to crime victims showed that Austria stands international comparison.

316. The City of Vienna has an institution of its own ("Drehscheibe", which roughly translates as "hub") where children are given professional care in keeping with their needs. Children will only be repatriated in cooperation with the authorities in their home countries when care for minors in accordance with their needs is ensured in the country of origin and they are sufficiently protected from sale.

#### **Criminal justice system protection measures**

317. The Committee recommends that the State party continue to consolidate its efforts to bring its legislation and administrative procedures into closer harmony with the Optional Protocol and in this respect, be guided by the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC resolution 2005/20) (CRC/OPSC/AUT/CO/1, paras. 31–32).

318. The Austrian Code of Criminal Procedure already implements all protective provisions of United Nations resolution 2005/20 as regards the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime to the extent that criminal proceedings are concerned.

319. One of the fundamental principles of the Austrian Code of Criminal Procedure is the safeguarding of victim rights without any discrimination. CID, public prosecutors and courts are obliged to appropriately consider the rights and interests of crime victims and to inform all victims about their essential rights in proceedings and their options for compensation or support. All authorities, institutions and persons involved in criminal proceedings must treat crime victims with respect for their personal dignity and take their privacy interests into account (section 10 Code of Criminal Procedure).

320. Psychosocial and legal support during court proceedings is a comprehensive way of assisting crime victims (see initial report under the Optional Protocol on the sale of children, child prostitution and child pornography). As per 1 January 2008 the existing rights to information were extended even further (e.g. entitlement to be informed of procedural rights, entitlement to inspect files, right to be notified, right to attend hearing of witnesses and defendants when these are interrogated in another room/via video transmission).

321. No later than prior to the very first hearing, victims whose sexual integrity may have been violated, have to be informed of their right that in the investigative proceedings, they may demand being interviewed by a person of the same sex, if possible.

322. Under the Austrian Code of Criminal Procedure, certain witnesses (in case of young age and/or depending on mental state and health) have to be heard under specially gentle circumstances. This includes interrogations in separate rooms with the support of a video link to avoid witnesses' contact with other persons involved in the proceedings; in any event, an encounter between witness and defendant is to be avoided. If the witness is under 14, the video-link interrogation is moreover to be done by an expert.

323. Persons who may have been physically injured by the crime purportedly committed by the defendant and who are not yet 14 years of age at the time of the interrogation, or whose sexual sphere may have been transgressed, are exempt from all further testimony after a video-link hearing.

324. If the witness is in danger, he/she may also testify anonymously. Witnesses may also refuse to testify on matters as would infringe their privacy.

325. Moreover, Austria makes all conceivable efforts to continue fulfilling its international obligations (e.g. the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the proposal for Framework Decision combating the sexual exploitation of children and child pornography) in the future.

## **F. International assistance and cooperation (art. 10)**

### **International assistance**

326. The Committee [...] urges the State party to strengthen international cooperation to combat the sale of children, child prostitution and child pornography, taking into account the relevant concluding observations adopted by the Committee on these countries with respect to the Optional Protocol (CRC/OPSC/AUT/CO/1, para. 33).

327. In cooperation with other partners, the Austrian Development Agency ADA is funding the project *Transnational Action Against Child Trafficking (TACT)* in Albania and the neighbouring states of Albania; the project aims at combating trafficking in human beings with a special focus on prevention, protecting women and child victims and recovery. The project term was from 1 December 2006 to 31 May 2009.

328. Furthermore, during the two-year term as a non-permanent member of the Security Council, Austria is active in the Working Group on Children in Armed Conflicts, supporting a stop on the recruitment of children and measures to combat all serious violations of the rights of the child.

### **Law enforcement**

329. The Committee encourages the State party to continue its efforts to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism (CRC/OPSC/AUT/CO/1, para. 34).

330. As already stated in greater detail in item 285, international cooperation in the fight against the sale of children, child prostitution and child pornography is also furthered by numerous bilateral and multilateral conventions on extradition and mutual legal assistance in criminal matters which inter alia apply in matters of child trafficking and sexual exploitation of children. In practice, legal assistance and extradition in the context of related offences function quickly and extensively.

## **G. Follow-up and dissemination**

### **Follow-up**

331. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, within the framework of follow-up and implementation of the Committee's concluding observations on Austria's second periodic report (CRC/C/15/Add.251), inter alia, by transmitting them to the members of the Council of Ministers, the Federal Assembly, and to Länder governments and Parliaments for appropriate consideration and further action.

332. The concluding observations are dealt with by the thematic working groups (Working Group on Child Trafficking, Task Force on Trafficking in Human Beings; Working Group on Sexual Exploitation, etc.).

### **Dissemination**

333. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including, but not exclusively, through the Internet, to the public at large, civil society organizations, the media, youth groups and professional groups in order to generate debate and awareness of the Convention, its implementation and monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through, inter alia, school curricula and human rights education (CRC/OPSC/AUT/CO/1, para. 36).

334. The Federal Ministry of Justice send the concluding observations pertaining to the Optional Protocol on the sale of children, child prostitution and child pornography to all federal ministries, the federal Länder, the Austrian Parliament, the members of the Task Force on Trafficking in Human Beings and the members of the Working Group on Child Trafficking (5 November 2008).

335. All relevant documents concerning the Optional Protocols as well as further information on the Convention and its Optional Protocols in a format specially suited for multipliers have been published on the children's rights website of the federal government at [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at).

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