

**3rd and 4th Report  
of the Republic of Austria  
to the United Nations**

**pursuant to Article 44, para. 1 b of the  
Convention on the Rights of the Child**

Vienna, August 2009

## General Information

### Ministry names and remits:

For the sake of convenience, the names of ministries used in the text may at times be the more colloquial, abbreviated names specifically referring to the policy area they are in charge of. This is to avoid the recurring indication of changes made in the names during the period under review (2005 – 2009), which would otherwise be necessary. The abbreviated names stand for:

**Youth Ministry:** the ministry in charge of child and youth policy

04-2000/02-2007: Federal Ministry for Social Security and Generations/BMSG

03-2007/01-2009: Federal Ministry for Health, Family and Youth/BMGFJ

Since 02-2009: Federal Ministry for Economy, Family and Youth/BMWFJ

**Family Ministry:** the ministry in charge of family policy

04-2000/02-2007: Federal Ministry for Social Security and Generations//BMSG

03-2007/01-2009: Federal Ministry for Health, Family and Youth/BMGFJ

Since 02-2009: Federal Ministry of Economy, Family and Youth/BMWFJ

**Ministry for Social Affairs:** the ministry in charge of social security

04-2000/02-2007: Federal Ministry for Social Security and Generations /BMSG

03-2007/01-2009: Federal Ministry for Social Security and Consumer Protection/BMSK

Since 02-2009: Federal Ministry of Labour, Social Affairs and Consumer Protection/BMASK

**Ministry for Economy:** the ministry in charge of economic affairs

04-2000/01-2009: Federal Ministry of Economy and Labour /BMWA

Since 02-2009: Federal Ministry of Labour, Social Affairs and Consumer Protection/BMWFJ

**Labour Ministry:** the ministry in charge of labour-market matters

04-2000/01-2009: Federal Ministry of Economy and Labour /BMWA

Since 02-2009: Federal Ministry of Labour, Social Affairs and Consumer Protection/BMWFJ

**Ministry of Education:** the ministry in charge of education

04-2003/02-2007: Federal Ministry of Education, Science and Art /BMBWK

Since 03-2007: Federal Ministry of Education, Art and Culture/BMUKK

**Women's Ministry:** the ministry in charge of general women's issues

02-2003/03-2007: Federal Ministry of Women's Issues and Health

Since 03-2007: The Federal Minister for Women (and Public Administration) in the Federal Chancellery

**Ministry of Health:** the ministry in charge of health-related matters

04-2000/02-2007: Federal Ministry for Social Security and Generations//BMSG

03-2007/01-2009: Federal Ministry for Health, Family and Youth/BMGFJ

Since 02-2009: Federal Ministry for Health

**Interior Ministry:** Federal Ministry of the Interior/BMI

**Justice Ministry:** Federal Ministry of Justice/BMJ

**Ministry of Foreign Affairs:** Federal Ministry for European and International Affairs (since 2002)

**Defense Ministry:** Federal Ministry for Defense (since 2007: FM for Defense and Sports)

## **Important acronyms:**

**CRC** United Nations Convention on the Rights of the Child

**CO-CRC** Concluding Observations of the Committee on the Rights of the Child, which considered the second periodic report of Austria (CRC/C/83/Add.8) at its 1007<sup>th</sup> and 1008<sup>th</sup> meetings (see CRC/C/SR.1007 and CRC/C/SR. 1008), held on 14 Jan. 2005 and adopted at its 1025<sup>th</sup> meeting, held on 28. Jan 2005, the Concluding Observations (see CRC/C/15/Add. 251).

**CO-OPAC** Concluding Observations of the Committee on the Rights of the Child, which considered the initial report of Austria (CRC/C/OPAC/AUT/1) at its 1007<sup>th</sup> and 1008<sup>th</sup> meetings (see CRC/C/SR.1007 and CRC/C/SR. 1008), held on 14 Jan. 2005 and adopted at its 1025<sup>th</sup> meeting, held on 28. Jan 2005, the Concluding Observations (see CRC/C/OPAC/CO/2).

**CO-OPSC** Concluding Observations of the Committee on the Rights of the Child, which considered the initial report of Austria (CRC/C/OPAC/AUT/1) at its 1344<sup>th</sup> meeting (see CRC/C/SR.1344), held on 14 Sept. 2005 and adopted at its 1369<sup>th</sup> meeting, held on 3 Oct. 2005, the Concluding Observations (see CRC/C/OPAC/CO/1)

**Committee** Committee of the United Nations on the Rights of the Child

**UN** United Nations

**NGOs** Non-governmental organizations

## **Information to supplement the report:**

Kinderhandel in Österreich. Bericht der Arbeitsgruppe Kinderhandel 2007-09 ("Child Trafficking in Austria. Report of the Working Group on Child Trafficking")

5. Familienbericht 2009 ("5<sup>th</sup> Family Report 2009")

Gewaltbericht 2009 ("Report on Violence 2009")

[www.kinderrechte.gv.at](http://www.kinderrechte.gv.at)

## Annex

### Legislation

During the period 2005 - 2009 the following legislation and draft legislation which i.a. serves the implementation of the CRC should be listed in chronological order:

- Reforms of the Family Burden Equalization Act (FLAG) since 2005
- Fiscal legislation (tax deductions and tax exempt amounts, child care expenses)
- Child care allowance provisions since 2005
- Electoral Law 2007
- Act on Protection from Violence 2009
- Family Law Amendment Act 2009 - FamRÄG 2009
- Agreement between federal government and Länder on child care purs. to Art. 15-a of the Austrian Constitution

### Laws in Education:

- Amendment to the School Education Act, Federal Law Gazette I 2004/172: Legislation enshrining the principle that pupils in their 8<sup>th</sup> or 9<sup>th</sup> year of general education are given insights into the world of work and vocational education by direct contact with businesses and/or educational institutions. Moreover, the act stipulates that the performance-related early warning system intervenes as quickly as possible to avoid fail grades in school.
- School Legislation Package 2005, Federal Law Gazette I 2005/91: Apart from several organizational measures, access to upper secondary school leaving exams for working adults is extended and examination standards for these exams are introduced; day-care at schools is expanded.
- 2<sup>nd</sup> School Legislation Packages 2005, Federal Law Gazette I 2006/20: More freedom in designing school partnership (joint decision-making by teachers, parents and pupils), extension of measures to promote gifted pupils (option to skip classes at interfaces, new exemption rules), introduction of special language classes, creation of a "Federal Institute for Educational Research, Innovation and Development of the Educational System" to intensify and coordinate educational research as well as quality assurance initiatives in the education system.
- Federal Act on Pedagogical Universities and Studies at Pedagogical Universities ("Act on University Colleges of Teacher Education" 2005), Federal Law Gazette I 2006/30: Teacher training was fundamentally redesigned, especially in organizational terms, with a view to a more academic profile and greater professionalization of teaching.
- Amendment to the School Organization Act, Federal Law Gazette I 2008/26: This amendment aimed at improving the choice of school (educational career decision), especially by moving the time of decision-making about the educational track from the 4<sup>th</sup> year of primary school to the end of the secondary level; four-year pilot projects are initiated.
- Amendment to the School Organization Act, Federal Law Gazette I 2008/116: This amendment aimed at reducing the number of pupils per class by an average of five children per class in certain types of school. Moreover, the options to organize special language classes are extended. In view of the fact that as per 1 July 2007, the voting age was lowered to 16, the compulsory subject "History and education for democratic citizenship" extended to further types of schools and classes.
- Amendment to the School Education Act, Federal Law Gazette I 2008/117: Inter alia, this amendment enshrines educational standards in Austrian legislation and the legal foundations are laid for standardised test assignments and centrally organized exams.
- Amendment of the Federal Act on Secondary School Leaving Exams for Working Adults, Federal Law Gazette I 2008/118: Access to the leaving exam is extended, with special consideration in respect of the situation of apprentices.

## 1. General measures of implementation

A list of offerings concerning education on the rights of the child at Pedagogical Universities can be found in the German version.

## 2. Definition of the child (Art. 1)

### Number of children and percentages in the population

2008	Total	Male	Female
0-95+	8,336,549	4,058,635	4,277,914
0-18 YOA	1,670,203	856,023	814,180
0	76,732	39,412	37,320
1 year	78,564	39,999	38,565
2 years of age	79,713	40,723	38,990
3 years of age	80,924	41,451	39,473
4 years of age	80,550	41,328	39,222
5 years of age	81,258	41,731	39,527
6 years of age	80,566	41,311	39,255
7 years of age	80,938	41,721	39,217
8 years of age	82,776	42,389	40,387
9 years of age	84,214	43,125	41,089
10 years of age	86,867	44,515	42,352
11 years of age	91,822	46,973	44,849
12 years of age	92,809	47,498	45,311
13 years of age	94,205	48,245	45,960
14 years of age	97,618	49,959	47,659
15 years of age	99,720	51,277	48,443
16 years of age	100,904	51,887	49,017
17 years of age	100,624	51,684	48,940
18 years of age	99,399	50,795	48,604

### Live births in Austria

	Births	Girls	Boys
2005	78,190	38,312	39,878
2006	77,914	38,169	39,745
2007	76,250	37,310	38,940
2008	77,752	37,626	40,126

Source: Demographic Yearbook 2007, p. 161, Tab.3.02;

#### Birth order in %

	Births in total	1 <sup>st</sup> child	2 <sup>nd</sup> child	3 <sup>rd</sup> child	4 <sup>th</sup> child	5 <sup>th</sup> and further	Birth rate
2005	78,190	46.3	34.8	13.1	4.0	1.8	1.41
2006	77,914	46.3	34.8	13.2	4.0	1.8	1.41
2007	76,250	46.2	35.1	12.9	4.0	1.8	1.38
2008	77,752	46.8	35.0	12.7	3.7	1.8	1.41

Sources: Demographic Yearbook 2007, p. 177, Tab. 3.18. and p. 129, Tab. 3.07; Demographic Yearbook 2007, p. 166, Tab. 3.07

#### Family arrangements and number of children in Austria in 1.000

In 1,000 incl. children	Families total		Spouses/ life partners		Lone parents Total		Lone parents of which mothers		Lone parents of which fathers	
	2001	2007	2001	2007	2001	2007	2001	07	2001	07
<15 YOA	836	802	706	683	130	119	118	111	12.6	8
All ages	1,418	1,426	1,120	1,124	298	302	253	258	45.1	44

Sources: Family and Household Statistics 2007, p. 58, Tab. 20 (Austrian Institute for Family Studies - ÖIF, Family Figures - Update 2008)

#### Children in Families in Austria

	Children in families	Children with spouses/life partners	Children with lone parents Total	Children with lone parents of which mothers	Children with lone parents of which fathers
In 1,000 ...incl. children...					
2001					
<15 YOA	1,336	1,160.1	175.6	159.0	16.7
All ages	2,423	2,007.1	415.7	354.8	60.9
2006					
<15 YOA	1,300	1,134.5	165.3	153.6	11.7
All ages	2,400	1,979.2	420.8	360.6	60.3

Sources: Family and Household Statistics 2007, p.58, Tab.

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

#### Number of Children and Youth Organizations and their Membership

In 2008 33 national youth organizations received basic and/or project funding totalling € 5,149,737 from the BMWFJ. These youth organizations are all members of the Österreichische Bundesjugendvertretung (Austrian National Youth Council) and according to information directly from them, they had a total membership of 1,296,206 persons in 2008.

The 33 national youth organizations are: ARGE Katholische Jugend Österreich, Aktion Kritischer Schüler, Bund Europäischer Jugend Österreich, Evangelisches Jugendwerk in Österreich, Junge ÖVP, Kath. Jungschar Österreich, Mittelschüler - Kartellverband, Naturfreundejugend Österreich, Österreichische Alpenvereinsjugend, Österreichische Gewerkschaftsjugend, Österreichische Jungarbeiterbewegung, Österreichische Kinderwelt, Österreichisches Kolpingwerk, Österreichische Landjugend, Österreichischer Pfadfinderbund, Pfadfinder und Pfadfinderinnen Österreichs, Sozialistische Jugend Österreich, Österreichische Kinderfreunde, Union Höherer Schüler, Österreichische Jungbauernschaft, Pennäler Ring Österreich, Österreichische Naturschutzjugend, Verein Jugend für eine geeinte Welt, Österreichische Blasmusikjugend, Grünalternative Jugend Österreich, Ring Freiheitlicher Jugend Österreich, Muslemische Jugend Österreich, Österreichische Trachtenjugend, Akademisches Forum für Außenpolitik, Generation Zukunft Österreich, Österreichisches Jugendrotkreuz, Bnei Akiva, Haschomer Hazair.

#### 4. Civil rights and freedoms (Arts. 7, 8, 13-17 and 37a)

##### Asylum applications from unaccompanied minors

	2005	2006	2007	2008	June 2009
Persons of age (determined)	91	74	66	104	33
Under 14	81	53	50	64	23
Under 18	709	361	466	706	454
Total	881	488	582	874	510

Data from the asylum statistics of the Interior Ministry/BMI  
[http://www.bmi.gv.at/cms/BMI\\_Asylwesen/statistik/start.aspx](http://www.bmi.gv.at/cms/BMI_Asylwesen/statistik/start.aspx)

#### 5. Family environment and alternative care

##### Number of applications for maintenance (item 5.4) :

2006	2007	2008
33,560	35,323	34,323

##### Adoptions (items 5.7/5.10g):

In respect of adoption cases, it is not possible to determine if the adoption was eventually granted, nor is there a possibility of attributing adoptions to specific countries.

2005	2006	2007	2008
299	310	301	271

##### Wrongful removal (item 5.8):

As per 1 January 2009 the statistical codes "hküentfü" (child abduction reported to the BMJ) and "hkürück" (receipt of a repatriation request under the Hague Convention on the Civil Aspects of International Child Abduction) were introduced. In the months of January to April 2009 one case of child abduction and ten repatriation requests were recorded.

Year	Art. 11 Abduction	Art. 15 Transfer to another court	Art. 39 Parental responsibility	Art. 41 Access	Art. 42 Return of the child	Art. 55 Cooperation in special cases	Art. 56 Accommodation of the child
	Incoming/ Outgoing	Incoming/ Outgoing	Incoming/ Outgoing	Incoming/ Outgoing	Incoming/ Outgoing	Incoming/ Outgoing	Incoming/ Outgoing
2005	4/6			2/1			
2006	20/9			5/-		1/-	-1
2007	5/17			-1		1/-	2/3
2008	21/10			1/-		5/-	-3
2009	7/8			2/1		5/-	
Total	57/50			10/3		12/-	2/7

## Youth welfare statistics 2008 (and 2005-comparison)

### Measures initiated

Age and sex of minor	Supported upbringing as per 31-12-2008		Full upbringing (except foster children) as per 31-12-2008	
	based on an agreement	based on a court order	based on an agreement	based on a court order
<b>Austria-wide</b>				
0 - 5 YOA				
female	2,711	57	121	80
male	3,029	65	167	82
total:	5,740	122	288	162
6 - 13 YOAe				
female	5,646	80	733	391
male	7,640	103	1,102	412
total:	13,286	183	1,835	803
14 - 18 YOA				
female	3,044	50	1,090	324
male	3,487	57	1,274	300
total:	6,531	107	2,364	624
Minors 31-12-08	25,557	412	4,487	1,589
Minors 31-12-05	19,133	224	4,018	1,441

### Measures completed

Age and sex of minor	Supported upbringing ended in period under review				Full upbringing (except foster children) ended in period under review			
	Duration of supported upbringing				Duration of full education			
	less than 12 months	up to 2 years	up to 5 years	more than 5 years	less than 12 months	up to 2 years	up to 5 years	more than 5 years
0 - 5 YOA								
female	765	283	79	5	35	7	3	1
male	842	366	91	5	58	22	2	-
total:	1,607	649	170	10	93	29	5	1
6 - 13 YOA								
female	1,372	609	331	63	93	40	33	19
male	1,851	817	457	64	158	61	62	20
total:	3,223	1,426	788	127	251	101	95	39
14 - 18 YOA								
female	1,016	473	294	121	267	141	135	90
male	1,057	592	438	174	234	147	160	110
total:	2,073	1,065	732	295	501	288	295	200
Minors 31-12-08	6,903	3,140	1,690	432	845	418	395	240
Minors 31-12-05	4,114	3,164	1,346	304	917	431	497	294



**Custody and legal representation entrusted to your welfare organizations (Civil Code - CC)**

Number of minors (2008 – 2<sup>nd</sup> line: 2005)

	Legal custody (sec. 211 CC)	Custody by appointment of court (sec. 213 CC)	Guardianship appointments (sec. 213 CC)	Representation in maintenance matters (sec. 212 para. 2 CC)	Representation in other matters (sec. 212 para. 3 CC)	Sole legal representation in maintenance matters (sec. 9 para. 2 UVG) <sup>*)</sup>
2008	1,612	2,947	611	93,365	1,028	50,677
2005	1,623	3,564	–	93,780	1,326	45,003

**Foster children**

Age and sex of the minor	out of which full upbringing as per 31-12-08 refers to			Care by persons other than family members in period under review			
	Number of foster children 31-12-08	based on an agreement	based on a court order	Duration of such care			
				less than 12 months	up to 2 years	up to 5 years	more than 5 years
<b>Austria-wide</b>							
0 - 5 YOA							
female	643	258	386	64	10	8	2
male	658	263	379	50	12	7	1
total:	1,301	521	765	114	22	15	3
6 - 13 YOA							
female	984	452	525	35	9	6	10
male	1,008	491	506	38	6	10	16
total:	1,992	943	1,031	73	15	16	26
14 - 18 YOA							
female	587	310	250	29	14	18	58
male	601	341	243	22	5	5	64
total:	1,188	651	503	51	19	23	122
Minors 31-12-08	4,481	2,115	2,299	238	56	54	151
Minors 31-12-05	4,584	2,271	2,215	222	50	77	146

Other activities of youth welfare	Minors concerned in 2008	Minors concerned in 2005
Paternity recognition and certifications	6,498	6,392
Descent procedure	1,368	1,395
Execution procedure	18,390	18,030
Criminal complaints for non-payment of maintenance	3,296	3,629
Measures due to imminent danger (sec. 215 para. 1, 2 <sup>nd</sup> sentence Civil Code)	989	545
Hearing of youth welfare organization (sec. 106 of Act on non-litigious matters, AußerStrG)	19,958	16,590
Hearing of minors under 10 years of age etc. (sec. 105 of Act in non-litigious matters)	6,788	5,967
Juvenile court investigations	1,938	1,843
Juvenile court assistance	1,560	1,520
Intermediaries for domestic adoptions	120	156
out of which: incognito adoptions	60	98
Anonymous births	40	--
out of which: Discontinuation of anonymity	2	--
Baby flap	2	--
Measure extended past majority as per 31-12-08	772	608

<sup>\*)</sup> Translator's note: Act on Maintenance Advances.

## 6. Basic health and welfare

Source: Austrian Statistics Institution "Statistik Austria", Yearbook on Health Statistics

Mortality rate of children under 5 in Austria from 2005 to 2008			
	Deaths		
	total	male	female
2005	395	209	186
2006	351	205	146
2007	335	189	146
2008	346	210	138
Population			
	total	male	female
2005	397817	204320	193497
2006	398679	204362	194317
2007	398049	203749	194300
2008	396483	202913	193570
Rate per 100,000 of population			
	total	male	female
2005	99.3	102.3	96.1
2006	88.0	100.3	75.1
2007	84.2	92.6	75.1
2008	87.8	103.5	71.3

### Live births since 2005 according to birth weight

	total	Underweights (below 2500 grammes)	
		absolute figure	in %
2005			
total	78190	5355	6.8
male	39878	2483	6.2
female	38312	2872	7.5
2006			
total	77914	5513	7.1
male	39745	2597	6.5
female	38169	2916	7.6
2007			
total	76250	5518	7.2
male	38940	2529	6.5
female	37310	2989	8.0
2008			
total	77752	5495	7.1
male	40126	2651	6.6
female	37626	2844	7.6

Mortality of mothers in Austria since 2002 according death causes and age (ICD-10, item no. O00-O99)

Years	Cause of death	Total number of deaths	
		Absolute figures	Per 100,000 live births
2002	Total <O00-O99>	2	2.6
	O 75.9	1	1.3
	O 86.8	1	1.3
2003	Total <O00-O99>	2	2.6
	O 14.1	1	1.3
	O 88.1	1	1.3
2004	Total <O00-O99>	3	3.8
	O 14.1	1	1.3
	O 22.9	1	1.3
	O 36.4	1	1.3
2005	Total <O00-O99>	3	3.8
	O00.0	1	1.3
	O88.1	2	2.6
2006	Total <O00-O99>	2	2.6
	O 14.1	1	1.3
	O 72.0	1	1.3
2007	Total <O00-O99>	3	3.9
	O 72.0	1	1.3
	O 14.1	2	2.6
2008	Total <O00-O99>	2	2.6
	O 71.1	1	1.3
	O 87.1	1	1.3

Source: STATISTIK AUSTRIA, Statistical data on causes of death (16-06-09) ICD-10 Codes:

- C71.9 Malignant neoplasm of brain, unspecified
- I51.9 Heart disease, unspecified
- I71.3 Abdominal aortic aneurysm, ruptured
- I80.2 Phlebitis and thrombophlebitis of other deep vessels of the lower extremities
- O00.0 Abdominal pregnancy
- O14.1 Severe pre-eclampsia
- O22.9 Venous complications in pregnancy, unspecified
- O36.4 Maternal care for intrauterine death
- O 71.1 Rupture of uterus during labor
- O72.0 Third-stage hemorrhage
- O75.9 Complication of labor and delivery, unspecified
- O86.8 Other specified puerperal infections
- O87.1 Deep phlebothrombosis in puerperium
- O88.1 Amniotic fluid embolism
- X70.0 Intentional self-harm by hanging, strangulation or suffocation, in the home

## Live births 2005/2008 according to places of birth (Statistik Austria)

	Total	Hospital		Obstetric clinic		Other	
		absolute figures	in%	absolute figures	in%	absolute figures	in%
2005 total	78190	77059	98.6	82	0.1	1049	1.3
male	39878	39338	98.6	40	0.1	500	1.3
female	38312	37721	98.5	42	0.1	549	1.4
2006 total	77914	76842	98.6	58	0.1	1014	1.3
male	39745	39208	98.6	33	0.1	504	1.3
female	38169	37634	98.6	25	0.1	510	1.3
2007 total	76250	75113	98.5	75	0.1	1062	1.4
male	38940	38354	98.5	40	0.1	546	1.4
female	37310	36759	98.5	35	0.1	516	1.4
2008 total	77752	76625	98.6	142	0.2	985	1.3
male	40126	39555	98.6	76	0.2	495	1.2
female	37626	37070	98.5	66	0.2	490	1.3

According to a survey of children aged 11, 13 and 15 in 2006 9.3 / 3.1 boys/girls were slightly/heavily overweight (Federal Ministry of Health - Health Behaviour in School-Aged Children)

### Percentage of one-year old children with the following vaccinations (2007):

Tuberculosis, diphtheria, tetanus, polio, measles and rubella:

Data pertain to the children vaccinated under the vaccination schedule for children, which comprises the following vaccinations:

- Vaccinations against diphtheria, tetanus, pertussis, polio, hepatitis B and haemophilus influenzae b are administered in a six-fold combination vaccine at the ages of 3, 5 and 7 months for basic immunization and as a booster shot at the age of 2. The DTPIPVHibHep vaccination rate is 85%.
- Vaccinations against measles, mumps and rubella are administered by two shots of the MMR combination vaccine during the second year of life. The MMR vaccination rate is 79%.

As the vaccination rate appears fairly low, it has to be said that the assumed rate is higher because more doses of vaccine were received by doctors. The figures are more indicative of the documentation rate than the actual vaccination rate.

### Percentage of breast-feeding mothers and duration of breast-feeding:

According to the survey "Baby nourishment today" ("Suglingsernahrung heute", 2006) 93% of mothers were breast-feeding from the start, after three months, the rate had gone down to 60% who were breast-feeding exclusively whilst 12% were partially breast-feeding their children. After six months, only 10% of mothers were breast-feeding exclusively whilst 55% had shifted to breast-feeding partially. After one year less than 1% were breast-feeding only, 16% of mothers were partially breast-feeding their infants.

### Percentage of children with HIV/AIDS:

During the period from 1983 to 30 April 2009 2,707 persons in Austria had AIDS, 1,494 of these died. during the same period 34 (1.26%) children under the age of 13 (pediatric cases) had AIDS, 18 (1.20%) of them died. Hence, 16 (1.5%) children in Austria are currently living with AIDS.

**Standard of living (data source: EU-SILC 2007):**

At-risk-of-poverty rate: Total: 12%  
Children and youth from 0 – 17: 15%; from 0 – 19 years of age: 14%

At-risk-of-poverty rate 2007 according to types of households:

Households with children: 12.5%  
Lone parent households with at least 1 child: 31.1%  
2 adults, 1 child: 8.9%  
2 adults, 2 children: 10.8%  
2 adults, at least 3 children: 18.7%

Manifest poverty: Total: 5%

0-19 years of age: 5% each of male and female children and youth

Manifest poverty in households with children (no pension): Total: 5 %

Lone parent households: 14%  
Multiple person households and 1 child: 3%  
Multiple person households and 2 children: 4%  
Multiple person households and at least 3 children: 5%

Relative median of at-risk-of-poverty gap according to age/sex in %:

Total: 17.3%; 0-17 years of age: 19.1%

At-risk-of-poverty rate before social transfer benefits according to age/sex, in %:

(not including retirement and survivors' benefits): Total: 24.8 %  
0-17 years of age: 36.1%

At-risk-of-poverty rate according to number of inhabitants in the region:

Vienna: 26%; >100,000: 10%; >10,000: 12%; <=10,000:12%

At-risk-of-poverty rate according to nationality:

Austrians: 12% - Non-Austrians: 27%

At-risk-of-poverty rate according to intensity of gainful employment:

No gainful employment: 61%  
Partially gainful employment: 18%  
Fully gainful employment: 6%

At-risk-of-poverty rate according to main source of income:

Gainful employment: 8%  
Self-employment: 12%  
Welfare benefits: 55%

Cannot afford... to go on holiday: 29%; to eat meat or fish every other day: 36%; to buy new clothes: 36%; to keep the apartment sufficiently warm: 44%; to pay unexpected expenses: 30%; to go to the doctor when necessary: 28%; is in arrears with payments: 32%

Housing problems:

Overcrowded space: 36%; humidity, mold: 17%; dark rooms: 15%; noise: 18%  
air and other environmental pollution: 18%; crime, vandalism: 13%;

## **7. Education, leisure and cultural activities**

Source: Statistik Austria, Education in Figures ("Bildung in Zahlen", 2007/08), p. 22f

### Literacy rate of children and adults

Austria does not have any authentic current data on illiteracy among adults. The OECD-PIAAC survey currently being prepared will probably provide pertinent results as from the year 2014.

As for the reading skills of children and youth, the PISA results can be used as an approximation. The PISA test of 2006 showed that 21.5% of the pupils tested in the 15-year-olds' age group were in the at-risk group due to their poor reading skills. The at-risk group can be broken down further, into about 8% whose reading skills are insufficient for PISA Level 1 and another app. 13% who reach PISA Level 1 at best.

### Rates pertaining to children and youth in primary schools, secondary education and apprenticeships

It is assumed that compulsory schooling, comprising 9 years which start when the child turns 6, is fully in place and implemented throughout Austria. In 2006, 93% of the 16-year-olds, 93% of the 17-year-olds, 78% of the 18-year-olds and 48% of the 19-year-olds were enrolled in the formal education system, these rates are thus school/university attendance rates, including apprenticeships (education participation rates). (Source: Stat. Austria - Microcensus; published in OECD/Education at a Glance 2008, Tab. C2.3)

### Retention rates and drop-out rates

For reasons of methodology, it is very difficult to calculate drop-out rates for individual types or levels of schooling. (The Austrian statistical office "Statistik Austria" is expected to publish the first calculations from data collected via the education documentation at the beginning of 2010.)

However, the EU education benchmark "Early school leavers" provides a good indicator for youth who drop out of the school system without completing secondary education. In accordance with the definition "percentage of those aged 18-24 who do not attend continuing education or training and whose highest level of completed education is secondary level I", the rates in Austria are as follows (2007): Total: 10.9%; women: 10.2%; men: 11.7%. (Source: Stat. Austria - Mikrocensus; published on the Eurostat website).

### Average pupil-teacher ratio

Number of pupils per teacher, 2006: primary level (primary schools): 13.9; secondary level I: 10.4; secondary level II: 11.3 (Source: Stat. Austria - UOE Survey; published in OECD/Education at a Glance 2008, Tab. D2.2)

No detailed surveys were done in respect of deviations between urban and rural areas but it may be safely assumed that there are no substantial differences.

### Rate of children in the informal educational system

This question is considered inapplicable to the Austrian educational system so no data are available.

### Rate of children in pre-school

Rate of 3- to 5-year-olds in child care (2007): 84.9%; 3-year-olds: 70.2%; 4-year-olds: 91.2%; 5-year-olds: 93.3%.

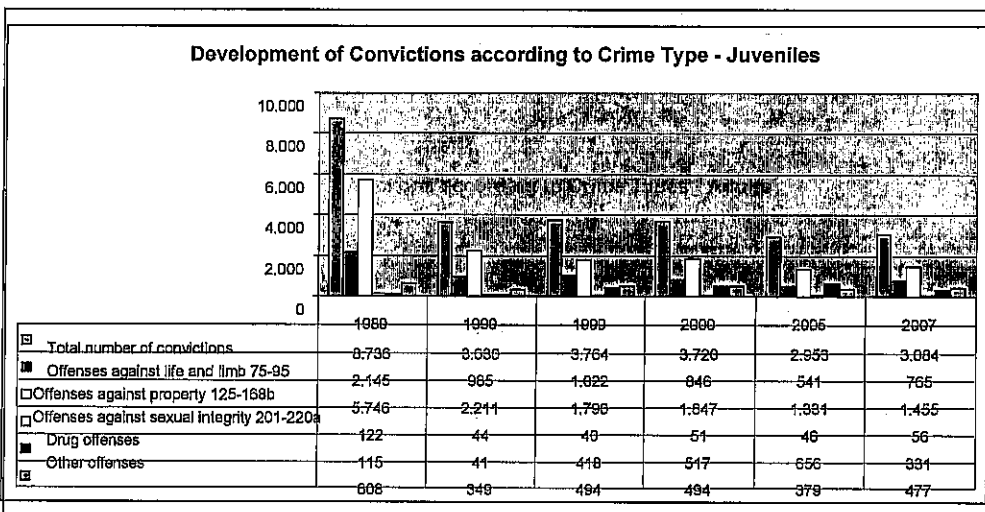
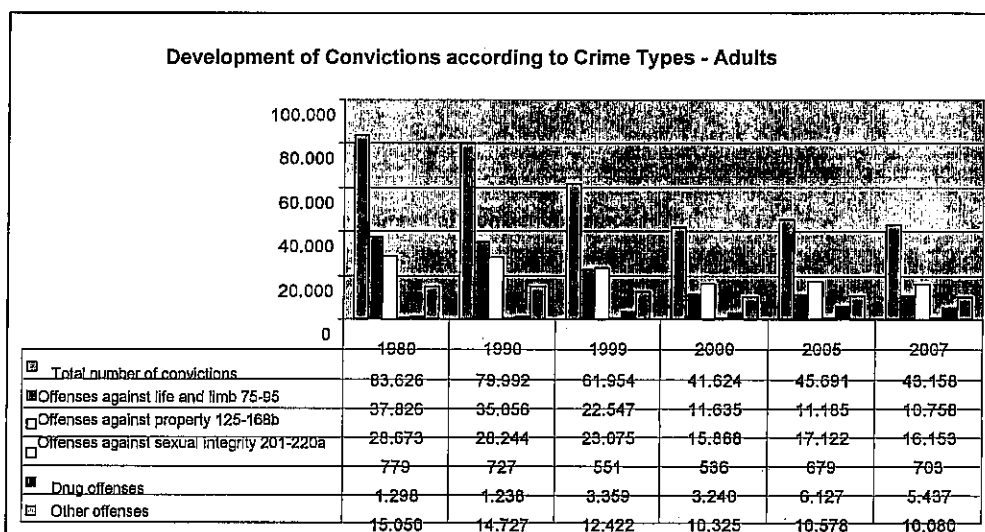
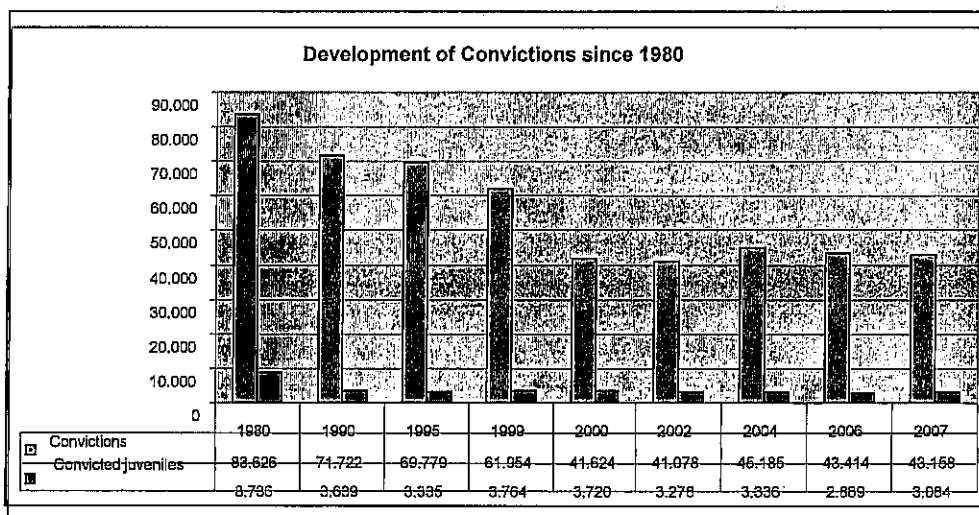
## Child Care

### Statistics on day care centers 2004/05 (Statistik Austria)

	2004/05	2004/05	2008/09	2008/09
		Day care rate		Day care rate
Total number of children in institutional day care	268,490		299,036	
of which in crèches (under 3)	13,429	9.2%	32,797	14 %
of which in kindergardens (3-6)	194,914	82.1%	210,043	86.5 %
of which in after-school day care (pupils)	43,599	11.1%	47,506	14.5 %
Group care, day care mothers/fathers			13,200	
Increase in number of care facilities in 5-year comparison		+45.8% in crèches +40.7% in after-school day care		

## 8. Special protection measures

### Children in conflict with the law:





**Court practice:**

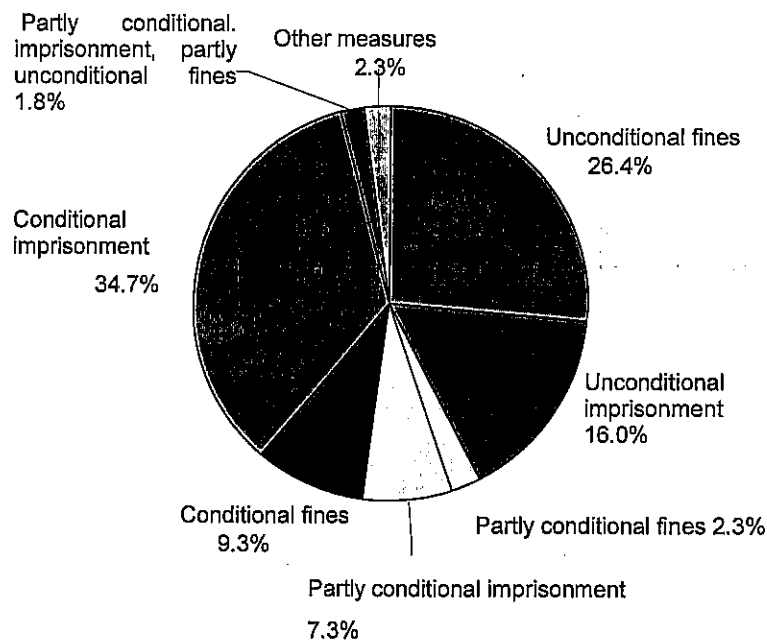
**Relations between fines, imprisonment and other measures (in total)**

Penalties pronounced	2005		2006		2007	
	Absolute figures	%*)	Absolute figures	%*)	Absolute figures	%*)
<b>Total of which</b>	<b>45,691</b>	<b>100</b>	<b>43,414</b>	<b>100</b>	<b>43,158</b>	<b>100</b>
<b>Fines</b>	<b>17,756</b>	<b>40.4</b>	<b>16,776</b>	<b>38.6</b>	<b>16,410</b>	<b>39.6</b>
conditional	3,893	8.5	3,883	8.9	4,012	9.3
unconditional	12,767	27.9	11,906	27.4	11,389	26.4
partly conditional	1,096	2.4	987	2.3	1,009	2.3
<b>Imprisonment</b>	<b>26,187</b>	<b>59.6</b>	<b>24,988</b>	<b>57.6</b>	<b>24,998</b>	<b>60.4</b>
conditional	15,306	33.5	15,013	34.6	14,974	34.7
unconditional	7,136	15.6	6,691	15.4	6,887	16.0
partly conditional	3,745	8.2	3,284	7.6	3,137	7.3
<b>Partly conditional imprisonment, partly unconditional fines</b>	<b>746</b>	<b>1.6</b>	<b>711</b>	<b>1.6</b>	<b>777</b>	<b>1.8</b>
<b>Other measures</b>	<b>1,002</b>	<b>2.2</b>	<b>939</b>	<b>2.2</b>	<b>973</b>	<b>2.3</b>

Table 121

\*) In percentage of total penalty numbers

**Relations of conditional, partly conditional and unconditional fines and imprisonment**



Relations between fines, imprisonment and other measures (in juvenile criminal law)

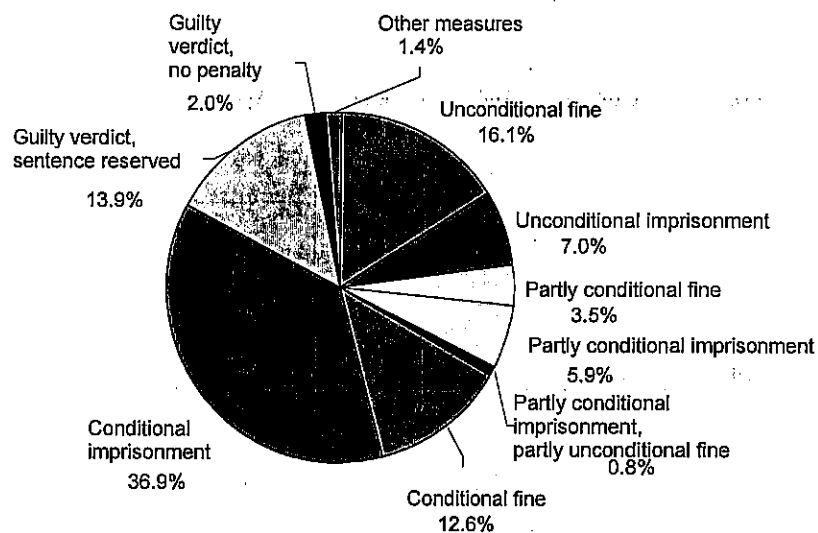
Penalties and measures pronounced	2005		2006		2007	
	Absolute figures	%*)	Absolute figures	%*)	Absolute figures	%*)
<b>Total</b>	<b>2,953</b>	<b>100.0</b>	<b>2,889</b>	<b>100</b>	<b>3,084</b>	<b>100</b>
of which						
<b>Unconditional sentences</b>	<b>692</b>	<b>23.4</b>	<b>630</b>	<b>21.8</b>	<b>711</b>	<b>23.1</b>
Unconditional fines	422	14.3	421	14.6	496	16.1
Unconditional imprisonment	270	9.1	209	7.2	215	7.0
<b>Partly conditional sentences**)</b>	<b>352</b>	<b>11.9</b>	<b>302</b>	<b>10.5</b>	<b>313</b>	<b>10.2</b>
Partly conditional fines	96	3.3	77	2.7	107	3.5
Partly conditional imprisonment	244	8.3	209	7.2	182	5.9
Partly conditional imprisonment, partly unconditional fines	12	0.4	16	0.6	24	0.8
<b>Conditional sentences</b>	<b>1,390</b>	<b>47.1</b>	<b>1,461</b>	<b>50.6</b>	<b>1,527</b>	<b>49.5</b>
Conditional fines	326	11.0	368	12.7	390	12.6
Conditional imprisonment	1,064	36.0	1,093	37.8	1,137	36.9
<b>Guilty verdict, reservation of penalty</b>	<b>426</b>	<b>14.4</b>	<b>386</b>	<b>13.4</b>	<b>427</b>	<b>13.9</b>
<b>Guilty verdict without penalty</b>	<b>57</b>	<b>1.9</b>	<b>72</b>	<b>2.5</b>	<b>63</b>	<b>2.0</b>
<b>Other measure</b>	<b>36</b>	<b>1.2</b>	<b>38</b>	<b>1.3</b>	<b>43</b>	<b>1.4</b>

Table 115

\*) In percentage of total number of juveniles convicted of offenses

\*\*\*) Taking into consideration those cases in which a conditional prison sentence was combined with an unconditional fine.

**Penalties and measures against juveniles in 2007**



Relations complaints/identified suspects/convictions/diversions: 1996 – 2007:

	Complaints	Suspects	Convictions	Diversion Offers	Diversion Proceedings discontinued
1996	485,450	203,623	66,980		
1997	481,549	203,132	65,040		
1998	479,859	204,718	63,864		
1999	493,246	205,312	61,954		
2000	516,929	181,755	41,624	50,065	
2001	552,710	203,877	38,763	45,140	
2002	591,584	210,713	41,078	53,860	
2003	643,286	229,143	41,749	51,926	
2004	643,648	247,425	45,185	55,291	47,072
2005	605,272	243,493	45,691	55,318	49,176
2006	589,495	238,111	43,414	44,959	45,420
2007	594,240	240,849	43,158	45,317	46,567

Crime development 2003 – 2007:

	2003	2004	2005	2006	2007	04-07	06-07
<b>Police</b>							
Known punishable acts	643,286	643,648	605,272	589,495	594,240	- 7.7%	+ 0.8%
Identified suspects	223,915	247,425	237,751	229,968	240,849	- 2.7%	+ 4.8%
Police clearing rate	34.8%	38.4%	39.6%	38.9%	40.5%		
<b>Justice system</b>							
<b>Diversions (completed cases)</b>		47,072	49,176	45,420	46,567	- 1.1%	+ 2.5%
→ of which fine		24,659	24,539	21,638	21,428	- 13.1%	- 1.0%
→ of which parole		1,725	2,142	2,428	2,844	+ 64.9%	+ 17.1%
→ of which probation		11,345	12,352	11,936	12,613	+ 11.2%	+ 5.7%
→ of which probation + parole requirements + obligations		2,159	2,165	1,855	2,012	- 6.8%	+ 8.5%
→ of which out-of-court mediation or victim compensation		7,184	7,978	7,563	7,670	+ 6.8%	+ 1.4%
<b>Convictions</b>	41,749	45,185	45,691	43,414	43,158	- 4.5%	- 0.6%
Life and limb	10,848	11,448	11,185	10,697	10,785	- 5.8%	+ 0.8%
Property	15,941	16,761	17,122	16,269	16,153	- 3.6%	- 0.7%
Sexual integrity	578	590	679	570	708	+ 22.9%	+ 23.3%
Drugs	4,532	5,706	6,127	5,795	5,437	- 4.7%	- 6.2%
Convictions / juveniles	3,178	3,336	2,953	2,889	3,084	+ 7.6%	+ 6.7%
Convictions / young adults	3,745	5,500	5,999	5,594	5,916	+ 7.6%	+ 5.9%
Convictions / non-Austrians	13,643	14,073	14,073	12,888	12,836	- 8.8%	- 0.4%
<b>Average number of prisoners</b>	7,881	8,423	8,863	8,391	8,952		

## **Juvenile delinquency:**

Complaints/convictions/diversion alternatives (juveniles): 2004 – 2007:

	2004	2005	2006	2007	2004/2007	2006/2007
Complaints	28,700	27,678	28,683	33,068	+15.2%	+15.3%
Convictions	3,336	2,952	2,889	3,084	-7.6%	+6.7%
Diversions	4,182	4,287	4,397	4,978	+19.0%	+13.2%
Convictions + diversions	6,885	7,239	7,286	8,062	+17.1%	+10.7%

Diversion alternatives – juveniles 2004 -2007:

Diversion alternatives	2004	2005	2006	2007	2004/2007	2006/2007
Fines	559	539	544	594	+6.3%	+9.2%
Community service	900	1,074	1,228	1,569	+74.3	+27.8%
Probation with parole requirements/obligations	485	440	372	393	-19.0%	+5.6%
Out-of-court mediation or victim compensation	1,277	1,332	1,353	1,408	+10.3%	+4.1%
Probation	961	902	900	1,014	+5.5%	+12.7%

Share of diversion alternatives offered 2007 (Diversion statistics 2007):

	2007	in % of sum total 2007	2006	in % of sum total 2006	Difference between 2006 and 2007
Fine	22,361	49.34%	23,150	51.49%	-789/-2.15%
Community service	3,187	7.03%	2,508	5.58%	+679/+1.45%
Probation	8,293	18.30%	7,906	17.58%	+387/+0.72%
Probation with parole requirements or obligations	2,097	4.63%	2,035	4.53%	+62/+0.1%
Out-of-court mediation or victim compensation	9,379	20.70%	9,360	20.82%	+19/-0.12%
Sum total	45,317		44,959		+358
Unsuccessful diversion	9,537	21.05%	10,003	22.25%	-466/-1.2%

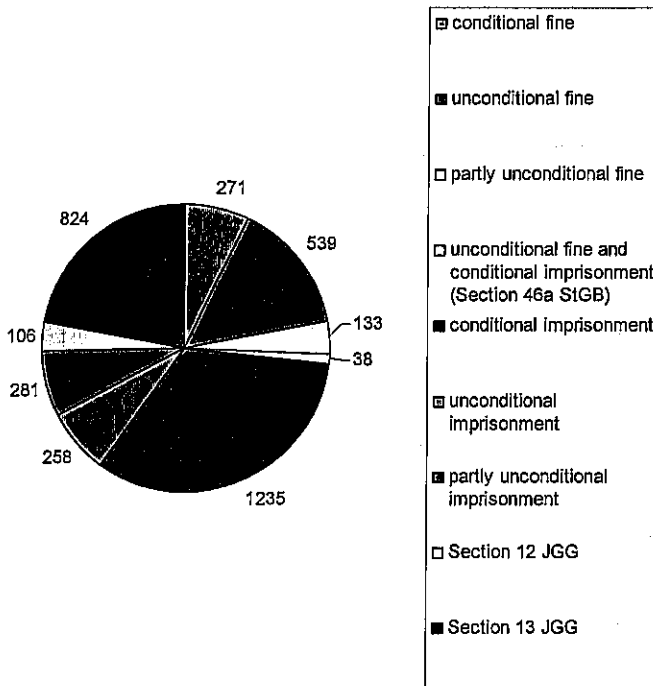
Number of diversion alternatives offered in 2007 (juveniles – young adults – adults):

	J	in % of offers	YA	in % of offers	A	in % of offers	total
Fine	577	12.14%	2,130	41.85%	19,654	55.40%	22,361
Community service	1,717	36.13%	585	11.49%	885	2.49%	3,187
Probation	515	10.84%	887	17.43%	6,891	19.42%	8,293
Probation with parole requirements or obligations	347	7.3%	303	5.95%	1,447	4.08%	2,097
Out-of-court mediation or victim compensation	1,596	33.59%	1,185	23.28%	6,598	18.60%	9,379
Sum total	4,752		5,090		35,475		45,317
Unsuccessful diversion	616	12.96%	921	18.09%	6,743	19.01%	8,280

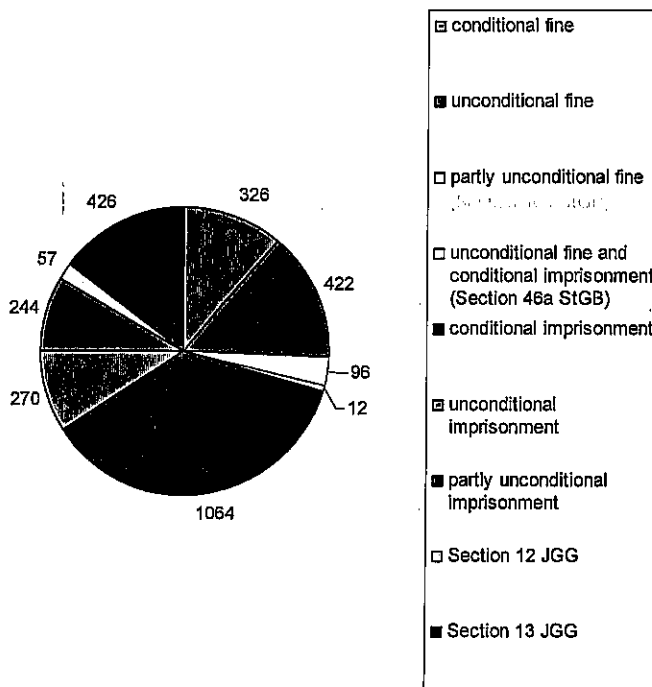
Long-term comparison in juvenile delinquency statistics

The following data from the crime statistics of the courts (juvenile justice) show a long-term comparison of conviction figures (at 5-year intervals), broken down according to male, female and non-Austrian juveniles:

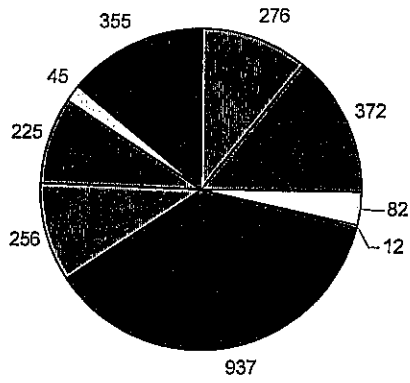
**convicted juveniles 2000 - Sanctions**



**convicted juveniles 2005 - Sanctions**

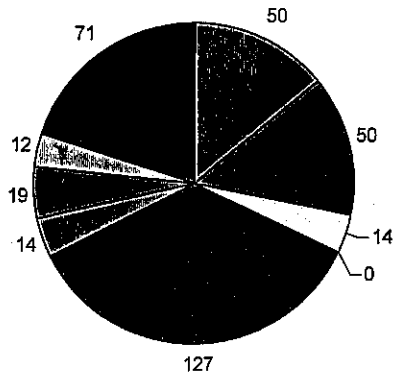


**convicted male juveniles 2005 - Sanctions**



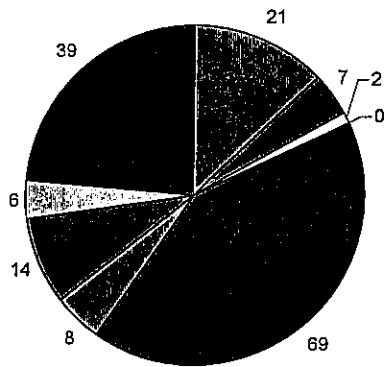
- conditional fine
- unconditional fine
- partly unconditional fine
- unconditional fine and conditional imprisonment (Section 46a StGB)
- conditional imprisonment
- unconditional imprisonment
- partly unconditional imprisonment
- Section 12 JGG
- Section 13 JGG

**convicted female juveniles 2005 - Sanctions**



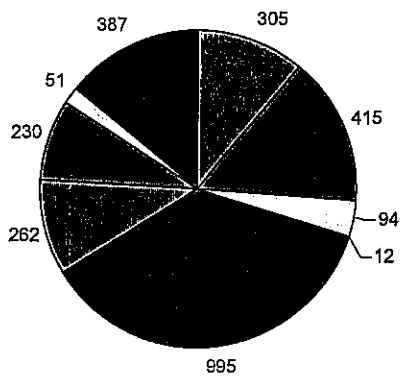
- conditional fine
- unconditional fine
- partly unconditional fine
- unconditional fine and conditional imprisonment (Section 46a StGB)
- conditional imprisonment
- unconditional imprisonment
- partly unconditional imprisonment
- Section 12 JGG
- Section 13 JGG

convicted juveniles below the age of 15 2005 -  
Sanctions



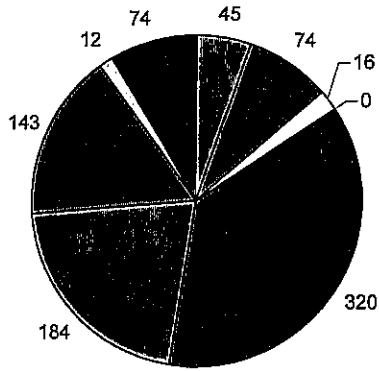
- conditional fine
- unconditional fine
- partly unconditional fine
- unconditional fine and conditional imprisonment (Section 46a StGB)
- conditional imprisonment
- unconditional imprisonment
- partly unconditional imprisonment
- Section 12 JGG
- Section 13 JGG

convicted juveniles above the age of 15 2005 -  
Sanctions



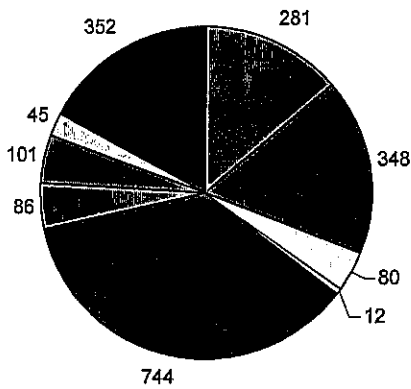
- conditional fine
- unconditional fine
- partly unconditional fine
- unconditional fine and conditional imprisonment (Section 46a StGB)
- conditional imprisonment
- unconditional imprisonment
- partly unconditional imprisonment
- Section 12 JGG
- Section 13 JGG

convicted foreign juveniles 2005 - Sanctions



- conditional fine
- unconditional fine
- partly unconditional fine
- unconditional fine and conditional imprisonment (Section 46a StGB)
- conditional imprisonment
- unconditional imprisonment
- partly unconditional imprisonment
- Section 12 JGG
- Section 13 JGG

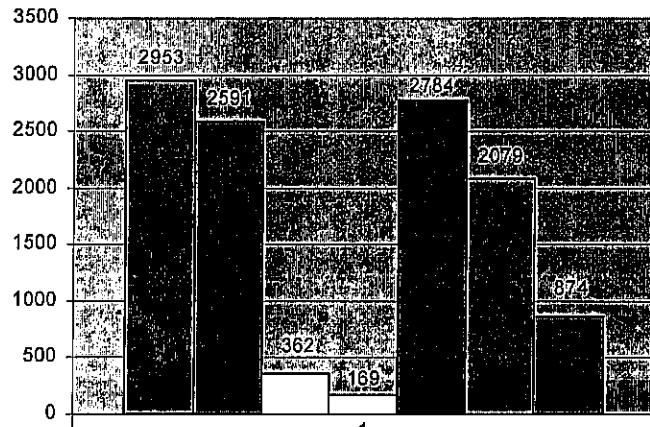
convicted juveniles of the national population 2005 - Sanctions



- conditional fine
- unconditional fine
- partly unconditional fine
- unconditional fine and conditional imprisonment (Section 46a StGB)
- conditional imprisonment
- unconditional imprisonment
- partly unconditional imprisonment
- Section 12 JGG
- Section 13 JGG

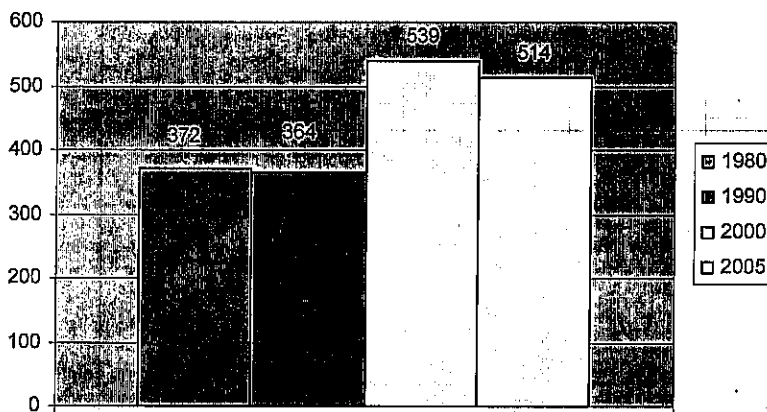


**total number of convicted juveniles 2005 - distribution of convictions**



total convictions	2953
male juveniles	2591
female juveniles	362
juveniles under 15	169
juveniles above 15	2784
juveniles of the national population	2079
foreign juveniles	874

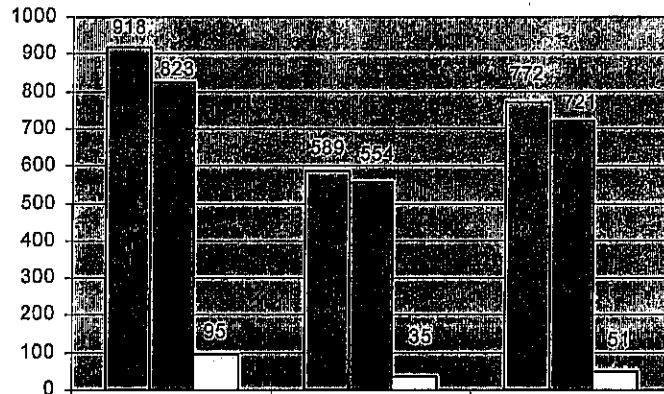
**convictions of juveniles to imprisonment 1980 - 2005**



1

**Development of pre-trial detention figures for juveniles in long-term comparison:**

**pre-trial detentions of juveniles 1990 - 2005**



	1990	2000	2005
■ juvenile pre-trial detainees - total number	918	589	772
■ male juveniles	823	554	721
□ female juveniles	95	35	51

Juvenile justice system

2007	PTD	Main trial, judge sitting alone	Main trial, w/ lay judges	Main trial by jury	Sum total
Number of juveniles	4755	2305	779	42	7881
convicted	1650	1973	910	58	4591
of which conditionally sentenced	610	1031	502	27	2170
Number of young adults	7745	3117	876	118	11856
convicted	3231	2903	1024	150	7308
of which conditionally sentenced	1119	1584	522	45	3270
2008	PTD	Main trial, judge sitting alone	Main trial, w/ lay judges	Main trial by jury	Sum total
Number of juveniles	3013	2293	819	43	6186
convicted	1566	1883	935	42	4426
of which conditionally sentenced	528	1020	549	19	2116
Number of young adults	4833	3063	658	76	8630
convicted	2938	2921	814	83	6756
of which conditionally sentenced	929	1573	373	33	2908

## **Children in exploitative relations:**

### **Economic exploitation, including child labor**

Specific measures to fight the economic exploitation of children (within the meaning of the Act on the Employment of Children and Youth / KJBG, these are defined as minors up to the age of 15 or the subsequent end of compulsory schooling): To especially ensure that the protection rules for children and youth are adhered to, at least one inspector at each of the 19 regional Labor Inspectorates is appointed as a specialist for child labor and youth protection (sec. 17 para. 3 KJBG). Checks are run in the course of visits to businesses. Responsibility for monitoring compliance with the prohibition of child labor lies with the administrative authorities of the districts in cooperation with the Labor Inspectorates, the municipal authorities and the school headmasters and headmistresses. Teachers, doctors and representatives of youth welfare who become aware of child labor cases, must inform the administrative authority of the district (sec. 9 KJBG). Information on the ban on child labor can be found in special brochures and the website of the Labor Inspectorates ([www.arbeitsinspektion/ AI/Personengruppen/Jugendliche/default.htm](http://www.arbeitsinspektion/ AI/Personengruppen/Jugendliche/default.htm)).

### **Data on child labor gleaned from the Labor Inspectorates' work:**

In 2006 four cases of prohibited child labor were identified in Carinthia (2), Lower Austria (1) and Styria (1). In 2007 there were five cases (one each in Carinthia, Lower Austria, Upper Austria, Styria and Vorarlberg).

One case each happened in the construction trade, in commerce, maintenance and repair work of motor vehicles and consumer durables, and in the hospitality business (the son of a friend of the innkeeper did a "taster day" at the inn). The inadmissible employment of pupils mainly takes place in connection with opportunities to get to know a vocation – so-called "taster days" in the business of relatives or friends of the family. The fifth case had to do with as yet unapproved and thus prohibited child work at a festival (Report on Activities of the Labor Inspectorates).

### **Youth concerned by drug and alcohol abuse:**

**Drugs:** According to a representative nation-wide survey carried out among the population at large in 2008 3.8% of 15-year-olds, 6.4% of 16-year-olds, 4.9% of 17-year-olds and 4.4% of 18-year-olds currently take illicit drugs (Nation-wide representative survey on the use of substances, Survey 2008, in print).

In the framework of the latest European School Survey Project on Alcohol and other Drugs, 4.2% of the 14-year-old pupils polled stated that they were currently taking illicit drugs (ESPAD Austria 2007, in print).

**Alcohol:** As for the alcohol consumption of youth, the following surveys provide information (new since 2005): GPS<sup>1</sup> - A Representative Survey of 2008 – a nation-wide general population survey (data will be analyzed in 2009); ESPAD Survey 2007<sup>2</sup> (European School Survey Project on Alcohol and Other Drugs) and HBSC Survey 2006<sup>3</sup> (Health Behaviour in School-Aged Children).

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<sup>1</sup> **GPS** (General Population Survey): In 2004 the Ministry for Health commissioned a drug-research institution, the Ludwig-Boltzmann-Institut für Suchtforschung (LBI), and a Linz-based market research institution, the Institut für Markt-, Meinungs- und Mediaforschung, to carry out a general population survey (respondents above the age of 14) on the use of substances and consumption patterns. In 2006 the results were published in three fact sheets – on the use of illegal drugs, smoking, alcohol consumption – these can be accessed via the LBI website ([www.api.or.at/lbi](http://www.api.or.at/lbi)). In the framework of the information network REITOX (Réseau Européen d'Information sur les Drogues et les Toxicomanies) coordinated by the EMCDDA (European Monitoring Centre for Drugs and Drug Addiction) Austria is obliged to have provide data from regular population surveys on one of five "key indicators" (second survey 2008, results 2009).

<sup>2</sup> **ESPAD Survey 2007:** "The European School Survey Project on Alcohol and Other Drugs" (ESPAD) is a Europe-wide survey among pupils aged 15 and 16 covering consumption and attitudes towards alcohol, tobacco and other drugs. It is carried out at four-year intervals. Austria has taken part since 2003. Not only are data to facilitate comparison with other European states; they are also suited to offer leads for targeted early identification and prevention measures. Results can be found on the websites [www.espad.org](http://www.espad.org) and [www.api.or.at/lbi](http://www.api.or.at/lbi).

<sup>3</sup> **HBSC Survey 2006:** "Health Behaviour in School-Aged Children" is a survey repeated regularly under the aegis and with the support of the World Health Organization WHO (Regional Office for Europe). The survey comprises data on health, health behavior and relevant health determining factors supplied by means of a questionnaire filled in by respondents. The survey of 2006 covered school-aged children aged 11-15 in 41 countries. It was the sixth time since 1986 the survey was carried out in Austria, with an institution for medical and health related social studies, the Ludwig-Boltzmann-Institut für Medizin- und Gesundheitssoziologie, being in charge.

**Number of children who received treatment and support as well as reintegration services:**

In 2007 drug aid institutions started to act by counseling, treatment or support measures in 1,949 cases involving the age group up to 19. Out of these contacts, 957 were short-term, 98 were low-threshold support activities, 749 were long-term ambulatory therapies and 145 involved in-patient therapy. In 71 of the ambulatory care cases, the age group 10-14 was concerned (Source: Standardized documentation on the clients of drug aid institutions (DOKLI), client year 2007, Gesundheit Österreich GmbH, ÖBIG Division, Vienna, 2008).

**Sale of children** (Source: Report of the Working Group on Child Trafficking, BMWFJ 2009)

In Vienna the following number of unaccompanied minors without fixed abode who had been instructed to commit punishable acts (mainly theft, but also prostitution) were stopped by police and accommodated at "Drehscheibe" (a youth welfare institution of the City of Vienna primarily for victims of the sale of children): 2004:315, 2005:701, 2006:319, 2007:72 and 2008:88. Some children were even admitted several times, usually under a different name and with changed looks.

In 2005 "Drehscheibe" began building up cooperation with the Bulgarian and Romanian authorities, which has been developing well, and already in 2006 led to a decline in the number of victims of the sale of children in Vienna. The age structure of children accommodated at "Drehscheibe" has also changed because the authorities specifically look out for younger children crossing the border. Whereas in 2005 about 90 % of the children were under 14, figures for 2008 look different: 20 % were 15, 65 % were between 13 and 15 and only 15 % were between 8 and 12 years old. The numbers of boys and girls taken to "Drehscheibe" are about equal.

In 2008 28 children came from Bulgaria, 10 from Romania, 8 from the Russian Federation, 7 each from Chechnya and Hungary, 5 from Slovakia, 3 from Bosnia, 2 from Poland, 1 each from Serbia and Croatia; 16 children came from countries in Asia and Africa. 95 % of the children from Bulgaria, 70 % of the children from Romania, and 100% of the children from Hungary, Slovakia, Kosovo and Bosnia are Roma children.

Out of the 88 children accommodated in 2008, 25 were repatriated (6 to Bulgaria, 4 each to Romania, Hungary, Chechnya, 3 to Russia, 2 to Poland and 1 each to Serbia and China). 36 children ran away from the "Drehscheibe" center and went into hiding (22 Bulgarian children, 5 Romanians and others). At the end of the year 9 were still in the care of "Drehscheibe"; 36 children were transferred to the care of other institutions, such as Caritas, Volkshilfe, Fonds Soziales Wien, Integrationshaus etc., 2 children were taken on by relatives and 3 were placed in detention.

In Lower Austria, it is assumed that some cases could involve the sale of children – this is due to the behavior and activities of minors accommodated in special facilities for refugees (Care Center East/Traiskirchen). However, none of the minors has been identified with certainty as a victim of the sale of children.

In Upper Austria, the number of unaccompanied minors coming to the attention of the authorities is declining. It is assumed that the minors avoid the care system.

In Styria, no cases of any sale of children have come to the notice of the regional police headquarters. The units in charge of refugee matters for the Land Steiermark reported that they register a few cases per year where there is reason to suspect forced marriages of minor Muslim girls, mostly from Chechnya, and the dark figure is presumably higher (but no complaints are filed).

The Land of Salzburg reported one case in 2006. In the Tirol cases of unaccompanied minors from North Africa, India, Romania, China and other countries give rise to a suspicion of child trafficking. No cases have come to the attention of the authorities in Vorarlberg. Burgenland and Carinthia did not submit a report.

**Submission to the Council of Ministers concerning the NAP on the Rights of the Child (21 November 2007)**

**Federal Ministry for  
Health, Family and Youth**

**File no.: BMGFJ-429104/0029-II/2/07**

**Vienna, 21 Nov. 2007**

**34/23**

**Re: Nationaler Action Plan on the Rights of Children and Youth (YAP).  
Implementation Report**

**Submission to the Council of Ministers**

At the United Nations General Assembly Special Session, the "Summit for Children 2002", states committed themselves to prepare National Action Plans to implement the rights of children and youth under the Convention on the Rights of the Child.

The ministry in charge of coordinating policies relating to children's rights (then the BMSG) drew up a National Action Plan for the rights of children and youth. As the Convention on the Rights of the Child (CRC) covers cross-cutting issues which concern the remits of numerous ministries and institutions, the federal government, the Länder, local communities, social partners, NGOs as well as children and youth were involved in the process from the beginning.

The NAP on the rights of the child (also: "Young Rights Action Plan – YAP") was drawn up with contributions from numerous players and ongoing support from scientists in a year-long process; as a result, measures in the interest of children are now also discussed whilst bearing the rights of the child in mind. In combination with proactive public relations, the debate has led to increased attention being paid to the needs and rights of children.

The National Action Plan on the Rights of Children and Youth was approved by the Council of Ministers by resolution of 23 November 2004. It comprises roughly 200 measures which the federal government is to implement until the *Midterm Review*, which the United Nations will carry out in December 2007.

To support implementation, and in view of the fact that the United Nations Committee on the Rights of the Child recommended the establishment of a permanent and effective coordination mechanism when it reviewed the second periodic report (Concluding Observations 2005), a Working Group was created to accompany the implementation process. It is composed of representatives of the federal ministries, the liaison office of the Länder, the Association of Austrian Cities and Towns and NGOs (Österreichische Bundesjugendvertretung and Kinderrechtenetzwerk-NC).

The working group is headed by the Federal Ministry for Health, Family and Youth, and it has discussed the implementation of the measures in the YAP, interfaces between the ministries and the Länder in connection with certain tasks and the integration of the UN recommendations (2005).

15 years after the ratification of the CRC it is on the one hand necessary to include children's rights policies in the policy-making of the governments ("mainstreaming"), whilst on the other hand, it is still required to emphasize certain points so as to make all

those in public life who are responsible for children and youth and work with and for children and youth aware of the values enshrined in the CRC.

In keeping with this requirement the YAP should also be considered a bracket around all the strategies and programs of the federal government which contain measures to implement the rights of children and youth without explicitly referring to them in the title.

Ever since the Convention on the Rights of the Child (CRC) was ratified 15 years ago, the federal government and the Länder have created good living conditions for children in Austria. However, the CRC is a dynamic instrument calling for constant attention to the special situation of children so that everyone has a fair chance in our quickly changing society, is protected from violence and exploitation, and will see that their opinions and needs are heeded appropriately. The interaction of all institutions is of special importance in cross-cutting matters, and the CRC is certainly one.

Thus, Austria acts in unison with the European Union, which adopted a Communication of the Commission (4 July 2006) aiming "to establish a comprehensive EU strategy to effectively promote and safeguard the rights of the child in the European Union's internal and external policies and to support Member States' efforts in this field".

Hence I submit the

**request**

that the Council of Ministers approve the Report on the Implementation of the National Action Plan on the Rights of Children and Youth (YAP) and to continue the dialogue on the ongoing implementation of the Convention on the Rights of the Child (CRC) which is planned to cover a period of ten years (2002-12).

Dr. Andrea Kdolsky

Attachment:

National Action Plan on the Rights of Children and Youth. Report on Implementation 2004 - 2007

(The report has been published on [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at).)

## **Concluding Observations of the Committee on the Rights of the Child**

UNEDITED VERSION

CRC/C/15/Add.251

28 January 2005

### **CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION**

#### **Concluding observations: Austria**

1. The Committee considered the second periodic report of Austria (CRC/C/83/Add.8 and Corr.1) at its 1007th and 1008th meetings (see CRC/C/SR.1007 and 1008), held on 14 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

#### **A. Introduction**

2. The Committee welcomes the submission of the State party's second periodic report, which was prepared in conformity with the guidelines of the Committee. It also expresses its satisfaction with the detailed written replies to its list of issues (CRC/C/Q/AUT/2), which included extensive statistical data and allowed the Committee to gain a clear understanding of the situation of children in the State party. The Committee also appreciates the presence of a high-level inter-ministerial delegation and the frank and constructive dialogue.

#### **B. Follow-up measures undertaken and progress achieved by the State party**

3. The Committee notes with appreciation the follow-up measures taken by the State party pursuant to its previous recommendations. It further welcomes:

- (a) The incorporation of children's rights in the Constitutions of the Länders of Upper Austria, Vorarlberg and Salzburg;
- (b) The adoption of the Parent and Child Amendment Act in 2001;
- (c) The establishment of the Austrian Federal Youth Representative Council in 2001;
- (d) The ratification of the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, as well as the ratification of ILO Conventions No. 138 concerning Minimum Age for Admission to Employment in 2000 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001.

...with appreciation the follow-up measures taken...



## **C. Principal areas of concern and recommendations**

### **1. General measures of implementation**

(Arts. 4, 42 and 44, para 6 of the Convention)

#### **The Committee's previous recommendations**

4. The Committee notes with satisfaction that various concerns and recommendations (see CRC/C/15/Add.98) made upon the consideration of the State party's initial report have been addressed through legislative measures and policies. However, the recommendations regarding, inter alia, reservations (para. 7), coordinating body (para. 10), budget allocation for international cooperation (para. 12), and juvenile justice (para. 29) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present concluding observations.

5. The Committee urges the State party to make every effort to address those recommendations in the concluding observations on the initial report that have not yet been implemented and to address the ones in the present concluding observations.

#### **Reservations**

6. The Committee takes note of the explanation by the delegation for the non-withdrawal of the reservations to articles 13, 15 and 17, but remains of the opinion that the reservations are - particularly in the light of the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993 - not necessary.

7. The Committee recommends that the State party reconsider the need for maintaining the existing reservations and continue and complete its review with a view to the withdrawal of the reservations in line with the Vienna Declaration and Plan of Action.

#### **Legislation**

8. The Committee welcomes the legislative reforms aimed at improving conformity with the Convention. The Committee also notes that at the federal level the Austrian Convention for the constitutional reform has started in 2003, a reform which intends, inter alia, to include children's rights in the Constitution. However, the Committee is concerned that some domestic legislation in the State party are not yet in full conformity with the principles and provisions of the Convention, inter alia, with regard to family reunification (art. 10), protection of a child without a family (art. 20) and refugee children (art. 22).

9. 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. The Committee also recommends that the State party take all necessary measures to ensure that its domestic legislation fully conforms with the principles and provisions of the Convention, in particular with regard to articles 10, 20 and 22 thereof.

#### **Coordination**

10. While recognizing efforts to improve policy coordination, the Committee reiterates its previous concern regarding the lack of a specific body, at Federal

and Länder level, with a clear mandate to coordinate in a comprehensive manner the implementation of the Convention.

11. 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 and that sufficient financial and human resources are allocated for the effective functioning of such a mechanism.

#### **National Plans of Action**

12. The Committee notes with appreciation that the Government approved in November 2004 a comprehensive National Plan of Action "Young Rights Action Plan (YAP)" incorporating the objectives and goals of the outcome document "A World Fit for Children", adopted by the General Assembly Special Session on Children in 2002.

13. The Committee recommends that YAP be finally approved by the Parliament and that the State party ensure that sufficient human and financial resources are allocated in a timely manner for its effective implementation and that the Plan should promote and facilitate an active involvement of children and youth, parents and other interested and relevant bodies. It further recommends that the State party develop indicators for monitoring and evaluating the Plan.

#### **International cooperation**

14. While welcoming the establishment of the Austrian Development Agency in 2004 and the State party's commitment to raising the level of official development assistance (ODA) from the current 0.22 per cent of gross domestic product (GDP) to 0.33 per cent by 2006, the Committee expresses concern that the level of development assistance still falls short of the United Nations target of 0.7 per cent of GDP.

15. In the light of its previous recommendations (see CRC/C/15/Add.98, paragraph 12), the Committee recommends that the State party continue and strengthen its activities in the area of international cooperation and increase its ODA to 0.7 per cent of its GDP, as recommended by the United Nations, paying special attention to the rights of the child in programmes and projects.

#### **Data collection**

16. The Committee notes with appreciation the extensive data provided in the report as well as in the written replies. Nevertheless, the Committee regrets that disaggregated data in certain areas of the Convention are not available, e.g. on asylum-seeking and refugee children, on domestic and intercountry adoptions, and on budgetary expenditure on children with disabilities.

17. 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.

#### **Dissemination of the Convention**

18. While noting the efforts undertaken by the State party to make the provisions and the principles of the Convention widely known, the Committee is of the opinion that these efforts need to be strengthened and systematized.

19. 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 the State party to undertake a systematic education and training programme on the principles and provisions of the Convention for children, parents and all professional groups working for and with children. It further recommends that the State party include the rights of the child in various pre-service and in-service trainings for those target groups.

## **2. General principles**

**(Arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

20. The Committee notes the positive efforts made by the State party to address racial discrimination, which have also been recognized by the Committee on the Elimination of Racial Discrimination in its concluding observations (CERD/C/60/CO/1). However, the Committee is concerned at the discriminatory attitudes and manifestations of neo-Nazism, racism, xenophobia and related intolerance towards migrant communities and those of certain ethnic backgrounds and at their impact on children belonging to these groups, as well as towards refugee and asylum-seeking children.

21. 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.

22. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention that have been undertaken by the State party to 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 (2001) on the aims of education.

23. The Committee appreciates the information on the implementation of the Convention in the Länders and districts, for example, in the areas of child and youth welfare and care services, but notes with concern that various disparities exist which could in some instances amount to discrimination.

24. 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.

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

25. The Committee welcomes the establishment of the Austrian Federal Youth Representative Council in 2001 and of a number of organizations at the local level. It also notes the efforts made with regard to children's participation in the schools. However, the Committee is of the opinion that these efforts should be strengthened.

26. The Committee recommends that the State party:

(a) Strengthen its support to the Federal Youth Representative Council and other local organizations, including through adequate provision of democratic structures and financial resources;

(b) In the light of article 12 of the Convention, continue to promote within the family, schools, administrative bodies and other institutions respect for the views of children and to facilitate their participation in all matters affecting them;

(c) Reinforce awareness-raising campaigns among the public in general as well as the education and training of professionals with a view to the implementation of this general principle.

27. The Committee notes with appreciation the activities of the child helpline "Rat auf Draht" and the support provided in that regard by the Government. However, the Committee is concerned that more structural support is needed for the further development and effective operation of this helpline.

28. The Committee recommends that the State party continue and increase its support for the child helpline in such a structural manner as to ensure that this important instrument enabling children to express their concerns and views and to seek help and advice can operate in the most effective way.

### **3. Civil rights and freedoms**

**(Arts. 7, 8, 13-17 and 37(a) of the Convention)**

#### **The right to identity**

29. The Committee is concerned at the practice of anonymous birth in the State party (also known as "baby flaps" or "baby nests") and notes the information that some data on the parent(s) are collected in an informal manner.

30. 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 date of birth of the parent(s) and allow the child at an appropriate time to have access to these data.

#### **Access to appropriate information**

31. While welcoming the State party's efforts to protect children from harmful media influence, the Committee shares the concern of the State party that the existing legal instruments for the limitation of the dissemination of racist, violent and violence-inducing images, texts and games through the Internet and mass media as well as video computer games need to be reviewed and extended.

32. The Committee recommends that the State party continue and strengthen its efforts to protect children from harmful information. It further recommends that the State party provide parental education and raise the awareness of children to effectively protect children against violence on the Internet, television and computer games and encourage international cooperation in this respect.

Some parent(s) are collected in an informal manner.

### **Protection of privacy**

33. The Committee is concerned at the information from children and adolescents that their right to privacy, for example, with regard to personal correspondence, is not fully respected in everyday life.

34. The Committee recommends that the State party take the necessary measures, such as awareness-raising and educational campaigns, to improve the understanding of and respect for the child's right to privacy among parents and other professionals working for and with children.

### **4. Family environment and alternative care**

(Arts. 5; 18 (paras. 1-2); 9-11; 19-21; 25; 27 (para. 4) and 39 of the Convention)

#### **Family reunification**

35. The Committee is concerned at the length of family reunification procedures and at the fact that it is restricted through the quota system and the age-limit set for children at 15 years.

36. The Committee recommends that the State party undertake all measures to ensure that family reunification procedures fully comply with article 10 of the Convention.

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

37. The Committee welcomes the various amendments to the criminal law and criminal procedure on sexual abuse and violence in the family. However, the Committee is concerned about the effectiveness of law enforcement and the recovery of child victims.

38. The Committee recommends that the State party:

(a) Provide for the training of the personnel involved, both in the prosecution process and in the recovery process;

(b) Provide programmes for the modification of attitudes and behaviour of abusers and perpetrators;

(c) Improve the recovery programmes for child victims;

(d) Make an attempt to have a one-stop service where multidisciplinary and intersectoral services are provided.

#### **Corporal punishment**

39. The Committee appreciates that corporal punishment has been prohibited by law in all settings, including in the family, the penal system and institutions of childcare. However, the Committee is concerned that corporal punishment may still be practised in the family.

40. 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.

## **5. Basic health and welfare**

**(Arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)**

### **Adolescent health**

41. While noting the efforts made by the State party, the Committee remains concerned about the health problems faced by adolescents, in particular about drug and tobacco use and alcohol abuse and that the regulation of their consumption by children and adolescents falls within the competence of the Länders. Furthermore, the Committee is concerned at the suicide forums accessible on the Internet where young people can exchange experiences and suicidal thoughts.

42. 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 inciting suicide.

### **Harmful traditional practices**

43. While welcoming the legal measures to prohibit and prosecute cases of female genital mutilation (FGM), the Committee is concerned that this practice involving girls and young women in the context of immigrant communities still occurs in Austria and abroad where certain children are taken to perform the procedure and brought back.

44. The Committee recommends that the State party strengthen its efforts to prevent and eliminate this practice by conducting well-targeted and appropriate educational campaigns in the context of religious communities and by considering the possibility of making punishable by law the acts of those involved in the performance of FGM outside Austria.

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

45. The Committee notes with appreciation the various measures adopted by the State party to combat poverty, including the adoption of family-related benefits and an increase in child allowances to help families with children. However, the Committee remains concerned at the high rate of poverty, mainly affecting single-parent families, large families and families of foreign origin.

46. 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 provide support to economically disadvantaged families, in particular single-parent families and families of foreign origin, so as to guarantee the right of a child to an adequate standard of living. In this regard, efforts should be increased to support, in particular, single mothers re-entering the labour market and to extend good quality and affordable child day-care facilities.

47. The Committee recommends that the State party strengthen its efforts

## **6. Special protection measures**

**(Arts. 22, 38, 39, 40, 37 (b), 32-26 of the Convention)**

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

47. While the Committee acknowledges the efforts undertaken by the State party at the Federal and Länder level to increase the number of adequate accommodation places for unaccompanied and separated asylum-seeking children, it remains concerned that the existing reception facilities are still insufficient compared to the number of applicants and that unaccompanied and separated asylum-seeking children are not systematically assigned guardians.

48. The Committee recommends that the State party:

(a) Ensure that guardians are systematically assigned to unaccompanied and separated asylum-seeking children and 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 personnel;

(c) Provide for adequate accommodation, taking into account the state of development of all unaccompanied and separated asylum-seeking children;

(d) Fully take into account the principle of the best interests of the child when deciding on the deportation of unaccompanied and separated asylum-seeking children and to avoid their placement in custody pending deportation.

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

49. The Committee notes with appreciation the ratification by the State party of ILO Convention No. 138 concerning Minimum Age for Admission to Employment, but remains concerned that domestic legislation continues to permit children from the age of 12 to be involved in light work.

50. The Committee reiterates its previous recommendation (see CRC/C/15/Add.98, paragraph 28) that the State party amend its domestic legislation by raising this age to that set in ILO Convention No. 138.

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

51. The Committee welcomes the State party's efforts in addressing the issue of sexual abuse and child pornography, such as the National Plan of Action of 1998 against Sexual Abuse and Child Pornography on the Internet and the training of the police and other professionals. The Committee also notes the Criminal Law Amendment Act of 2004, which contains a new regulation on trafficking in human beings.

52. The Committee recommends that the State party:

(a) Strengthen its efforts to formulate and effectively implement a National Plan of Action against commercial sexual exploitation and trafficking, as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children (1996 and 2001), taking into account the Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography and the existing National Plan of Action of 1998 against Sexual Abuse and Child Pornography on the Internet. International and especially regional cooperation should be further strengthened;

(b) Strengthen the capacity of the police and relevant personnel to receive complaints and investigate cases of trafficking and sexual exploitation in a child-sensitive manner, inter alia, by increasing human and financial resources, and where necessary, by providing appropriate training;

53. The Committee also recommends that the State party continue to strengthen its



(c) Promote and support the implementation of the "Code of Conduct for the protection of children from sexual exploitation in tourism";

(d) Ensure that children who are victims of trafficking, prostitution and pornography in the State party have access to appropriate recovery and reintegration programmes and services.

#### Juvenile justice

53. The Committee is concerned about the increasing number of persons below 18 placed in detention, disproportionately affecting those of foreign origin, and that persons below 18 are not always separated from adults.

54. 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;

(b) In this regard, undertake the following particularly recommended measures:

- (i) Alternative measures for detention, including pre-trial 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;
- (ii) Measures to ensure that persons below 18 held in detention are strictly separated from adult detainees, also during daytime activities;
- (iii) Measures to ensure that the staff in juvenile detention centres are well trained to deal in a proper and adequate manner with the relatively high number of persons below 18 who are of foreign origin;
- (iv) Measures to significantly improve the collection of data on all relevant aspects of the juvenile justice system in order to obtain a clear and transparent picture of the practices;

(c) In the light of article 40, paragraphs 1 and 4, of the Convention, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including through adequate education.

### **7. Optional Protocols to the Convention**

55. The Committee recommends that the State party submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography in due time, i.e. on 6 May 2006.

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

### **Follow-up**

56. 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.

### **Dissemination**

57. 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.

## **9. Next report**

58. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee urges the State party to submit its next report by 4 September 2009. This report, which combines the third and fourth periodic reports, should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.

**CONCLUDING OBSERVATIONS ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

UNEDITED VERSION

CRC/C/OPSC/AUT/CO/1

3 October 2008

United Nations

Committee on the Rights of the Child

49th session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 12(1) OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

**Concluding observations: Austria**

1. The Committee considered the initial report of Austria (CRC/C/OPSC/AUT/1) at its 1344th meeting (see CRC/C/SR.1344), held on 15 September 2008, and adopted at its 1369th meeting, held on 3 October 2008, the following concluding observations.

**Introduction**

2. The Committee welcomes the submission of the State party's initial report, as well as the replies to its list of issues submitted in a timely fashion, though it regrets that the report was not prepared in full accordance with the Committee's reporting guidelines and that civil society was not adequately consulted in the drafting process of the report. The Committee appreciates the constructive and informative dialogue held with the State party's multisectoral delegation.

3. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report (CRC/C/15/Add.251) on 28 January 2005 and the concluding observations adopted on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/AUT/CO/1) on 28 January 2005.

## **I. General observations**

### **A. Positive aspects**

4. The Committee notes with appreciation:
  - (a) The reform of the Criminal Code, pursuant to the Criminal Law Amendment Acts (2001, 2002 and 2004), which, inter alia, broadened the scope of offences relating to child pornography and strengthened penalties relating to sexual offences;
  - (b) The adoption, in 2004, of the National Plan of Action for the Rights of Children and Adolescents, which provides for a series of measures to prevent offences referred to in the Optional Protocol;
  - (c) The adoption of the National Action Plan against Human Trafficking which draws attention to child-specific aspects of human trafficking, and the establishment, in 2004, of a task force on human trafficking, and a "Sub-Task Force", in 2007, to identify concrete demand-oriented measures for victims of child trafficking.
  
5. The Committee further commends the State party on its accession to, or ratification of:
  - (a) The United Nations Convention against Transnational Organized Crime, in 2004;
  - (b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2004;
  - (c) The European Convention on the Compensation of Victims of Violent Crimes, in 2006;
  - (d) The Council of Europe Convention on Action against Trafficking in Human Beings, in 2006.

## **II. Data**

### **Data collection**

6. The Committee welcomes the statistical data provided in the State party report and the replies to the list of issues, including data on the sale, trafficking, child prostitution and child pornography. However, the Committee regrets that currently, statistics for all sexual crimes against minors are grouped together and are not disaggregated by, inter alia, sex and age. The Committee also regrets that disaggregated data on asylum-seeking and refugee children and on domestic and intercountry adoptions is still not available.

7. 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.

### **III. General measures of implementation**

#### **National Plan of Action**

8. While welcoming the adoption by the State party of the National Plan of Action for the Rights of Children and Adolescents in 2004 and the steps taken towards its implementation, the Committee is however concerned that the Plan does not include all areas covered by the Optional Protocol.

9. 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 adopted at the World Congress against Commercial Sexual Exploitation of Children in Stockholm in 1996 and the Global Commitment adopted at the Second World Congress against Commercial Sexual Exploitation of Children in Yokohama in 2001. In this regard, the Committee recommends that the State party ensure the allocation of sufficient resources to ensure the full implementation of all existing national strategies and programmes. Furthermore, the Committee encourages the State party to continue to strengthen the follow-up to the implementation of the National Plan of Action against Human Trafficking.

#### **Coordination and evaluation**

10. While noting the role played by the various governmental and non-governmental entities in the implementation of the Optional Protocol, the Committee is concerned about the absence of a mechanism mandated to effectively coordinate between these institutions, including at the provincial and national levels.

11. 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.

#### **Dissemination and training**

12. The Committee welcomes the organization of numerous information campaigns related to the sexual exploitation of children, aimed at children, the general public and government officials, as well as training seminars for judges and public prosecutors on child victims of sexual abuse and human trafficking. However, the Committee remains concerned at the insufficient efforts made to raise awareness of the Optional Protocol among relevant groups of professionals and the public at large, and to provide adequate training in all areas covered by the Optional Protocol.

13. 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.

## **Independent monitoring**

14. While acknowledging the important work of the Child and Youth Advocate Offices (Ombudsman), the Committee is concerned that their mandate does not explicitly include monitoring the implementation of the Convention and its Optional Protocols. The Committee is also concerned about the discrepancies in the available resources among the Child and Youth Advocate Offices of different provinces.

15. 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.

## **IV. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)**

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

16. The Committee welcomes various initiatives taken by the State party to address trafficking in children, both at home and abroad, including the National Action Plan against Human Trafficking in 2004, but regrets that the sale and trafficking in children, including for the purpose of sexual exploitation, remains a problem in the State party. Furthermore, while the Committee notes with appreciation the establishment of a sub-task force on child trafficking in 2007, it remains concerned about the absence of a comprehensive plan to address sale of children, child prostitution and child pornography that incorporates all aspects of prevention, recovery and reintegration.

17. 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.

18. While welcoming the efforts made to implement the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism and the strengthening of extraterritorial legislation by the Criminal Law Amendment Act 2004 for sexual offences committed abroad by Austrian citizens, the Committee is concerned that sex tourism by Austrian citizens continues to be a problem.

19. The Committee recommends that the State party continue to take measures to prevent sex tourism, in particular by allocating additional funds for public campaigns for this purpose. The Committee also urges the State party, through relevant authorities, to strengthen cooperation with the tourism industry, NGOs and civil society organizations in order to promote responsible tourism by the dissemination of the Code of Conduct of the World Tourist Organization among employees within the tourism industry and awareness-raising campaigns for the general public.

**V. 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**

20. While welcoming the various amendments to the Criminal Code which significantly strengthened the protection of children against offences covered by the Optional Protocol, the Committee remains concerned that the State party's legislation does not criminalize all the acts constituting offences against children in full compliance with the definition of offences contained in articles 2 and 3 of the Optional Protocol.

21. 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.

### **Legal aspects of adoption**

22. While noting the extensive efforts made by the State party to systematically criminalize the sale of children, the Committee is concerned that irregular intercountry adoption may not be criminalized as an act of sale of children.

23. 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 (article 3, para. 1 (a) (ii)), as stipulated in the Optional Protocol, are incorporated into the legislation.

### **Jurisdiction and extradition**

24. The Committee welcomes the Austrian extraterritorial jurisdiction on cases when the perpetrator cannot be extradited, but remains concerned that the Austrian Criminal Code only allows for extraterritorial jurisdiction for offences covered by the Optional Protocol in cases where Austrian interests are violated.

25. 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.

## **VI. 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**

26. The Committee takes note of the bilateral agreements with Bulgaria and Romania regarding the repatriation of children who may have been trafficked.

27. The Committee, while cognizant that article 195 of the Criminal Code provides for child protection centres and for special psychological rehabilitation of child victims, and of the role played by non-governmental organizations, notes that according to the Working Group on Child Trafficking under the Task Force on Human Trafficking in Austria, there is no national coordination or care and support concept for victims of child trafficking in line with international standards.

28. The Committee is concerned that some of the State-appointed legal representatives and guardians for asylum-seeking children may lack specific expertise on the needs of child asylum-seekers.

29. The Committee is also concerned about the lack of support mechanisms for child victims of sale, prostitution and pornography, including for the purpose of sexual exploitation, from abroad and that staff at reception facilities for separated asylum-seeking children may not always be aware of traumatic experiences of children under their care.

30. The Committee recommends that the State party:

- (a) Create a nationwide policy on coordination, care and support for the child victims of sale, in line with the requirements under the Optional Protocol;
- (b) Ensure that sufficient resources are allocated in order to strengthen social reintegration and physical and psychosocial

recovery measures, in accordance with article 9 (3) of the Optional Protocol, in particular by providing interdisciplinary assistance for child victims;

- (c) 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;
- (d) Ensure that the helpline "147 Rat auf Draht" is sufficiently funded to allow its permanent operation, and that it is fully accessible and known to children, and facilitate the collaboration of the helpline with child-focused NGOs, the police and health and social workers;
- (e) Ensure that legal representatives of separated asylum-seeking children are specially trained persons, familiar with the specific needs of child asylum-seekers;
- (f) Ensure that support services with specifically trained staff are systematically made available to child victims of sale and trafficking from abroad, and ensure that the best interests of the child is the primary consideration in the case of a decision to repatriate a child;
- (g) 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;
- (h) 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, in accordance with article 9(4) of the Optional Protocol.

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

31. The Committee, while noting with appreciation the interest taken by the State party to ensure the implementation of the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20), nevertheless notes that some child victims of prostitution may be treated as offenders rather than as victims.

32. 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.

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

### **International assistance**

33. The Committee welcomes the State party's extensive support for international cooperation projects relating to the implementation of the Optional Protocol in a number of countries, in particular, to address trafficking in children, and 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.

### **Law enforcement**

34. 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.

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

### **Follow-up**

35. The Committee recommends to 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, 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.

### **Dissemination**

36. 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.

## **X. Next report**

37. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 4 September 2009.

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