



Convention on the Rights of the Child

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Consideration of reports of States parties

Replies of Austria to the list of issues in relation to its combined fifth and sixth periodic reports*

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Introductory remark

1. This report has been drawn up by the Federal Chancellery, Department V/6, which is responsible in Austria for coordinating policies on the rights of the child; this process has involved all federal ministries of Austria, in addition to all regional governments (of the Länder).

Part I

Reply to paragraph 1 of list of issues (CRC/C/AUT/Q/5-6)

Composition, role and mandate of the “Children’s Rights Board” and resources allocated to the “Children’s Rights Board” and activities carried out since its establishment

2. The Children’s Rights Monitoring Board, which was constituted in 2012 as a reaction to the recommendations of the UN Committee on the Rights of the Child on the 4th/5th periodic report review on the implementation of the Convention, is composed of an equal number of NGO representatives and children’s rights experts (24).

3. The members of the Children’s Rights Board, who are appointed by the Federal Minister for Families and Youth on the recommendation of the Board, are independent in their participation and are not bound by any instructions.

4. The youth spokespersons of the political parties represented in the National Council are entitled to participate in the meetings but hold no voting rights.

5. The Children’s Rights Board advises the Federal Ministry of Families and Youth as well as, where required, legislative, administrative and judicial structures at federal, state and municipal level.

6. In 2016, the Children’s Rights Monitoring Board adopted rules of procedure (GEO) and (dispensing with the word “Monitoring”) the new name “Children’s Rights Board” (10 March 2017), arguing that this body does not fully comply with the “Paris Principles”.

7. The central task and core mandate of the Children’s Rights Board is to identify topics, questions and problems of relevance to the lives of children in Austria and to develop concrete approaches and strategies for solving child-specific problems.

8. From 2013–2018, a total of 12 project groups worked on a number of issues such as data collection, constitutional issues, the best interests of the child, socialisation of children in the family, in kindergarten and at school, child welfare standards for children growing up outside the family of origin – inclusion of children at risk of disadvantage, health, ban on corporal punishment, protection against harm to the sexual integrity of children, child safety, child-friendly communities and cities, “digikids”, children in conflict with the law, Child Impact Assessment, participation of children and refugee children.

9. In 2018, the Children’s Rights Board defined new priorities: Data, Child Poverty, Justice/Child and Youth Welfare, Education/School/Kindergarten/Participation, Refugee Children, Child Health, Dealings of the Police with Children/Adolescents.

10. The Children’s Rights Board has held 22 meetings since commencement of the Children’s Rights Monitoring Process, and 60 project group meetings with a total of over 150 participants have taken place to date.

11. The Factbook “Children in Austria” – a compilation of relevant longitudinal data on children – and the withdrawal of the reservations to Articles 13, 15 and 17 of the Convention on the Rights of the Child on 7 July 2015 rank among the achievements of the Children’s Rights Monitoring process.

12. Since the start of this process, an amount of EUR 70,000 per year has been allocated to projects relevant to children’s rights; this amount has tended to be partly, but never fully, utilised for various projects aimed at promoting the rights of the child.

13. The Concert of the winners of the International Composition Contest “Sounds of Children’s Rights” involving more than 20 young talented musicians from all over the world, aged 10–14 and 15–18, organized jointly by the Austrian Federal Chancellery, Section V – Families and Youth, and the Federal Ombudsman for Children, and performed on 15 November 2019 at the Wiener Konzerthaus, is to be regarded as the ultimate highlight to celebrate the 30th anniversary of the Convention on the Rights of the Child in Austria.

Activities of the subcommittees on children’s rights in the National Council and the Federal Council and efforts to coordinate their actions

14. Following the parliamentary symposium held on the occasion of the 25th anniversary of the UN Convention on the Rights of the Child in November 2014, the Family Committee of the Austrian National Council set up the subcommittee “Children’s Rights Monitoring and Youth Participation” on 29 September 2015 on the basis of a six-party motion of the parliamentary groups represented in the National Council, with the aim of giving greater consideration to children in the parliamentary process.

15. This subcommittee was however dissolved along with the end of the 25th legislative period in 2017.

16. At its meeting on 3 December 2015, the Federal Council set up its own Children’s Rights Committee with the aim of further developing its position as a centre of excellence for children’s rights. In addition to technical exchange with experts in the field of children’s rights, the Children’s Rights Committee of the Federal Council visits the children’s and youth parliaments and the state Ombuds offices for Children and Youth and holds debates with the spokespersons for children and youth in the state parliaments.

Reply to paragraph 2 of list of issues

Standardised “Child Impact Assessment” process and specific examples of the effects of the assessment on legislation relevant for children

17. With regard to the consideration of children’s rights, the following regulations are relevant with regard to the outcome-oriented impact assessment tool (WFA):

- (a) Federal Budget Act 2013;
- (b) WFA Principle Ordinance;
- (c) WFA Children and Youth Ordinance.

18. Since 2013, it has been policy for the responsible member of the Federal Government or the responsible budget management body to carry out an impact assessment for all regulatory projects and other eligible projects (pursuant to Section 5 subsection 2 WFA Principle Ordinance); this must be attached to the respective drafts, e.g. as part of the ex-ante evaluation procedure or in the course of reaching an agreement with the Minister of Finance.

19. The impact dimension “children and youth” is an important consideration of the outcome-oriented impact assessment (WFA) which aims to ensure that both desirable and undesirable impacts are taken into account within the framework of the WFA.

20. The WFA Children and Youth Ordinance regulates the more in-depth procedure for carrying out assessments in the effect dimension “children and youth”.

21. Pursuant to Section 5 subsection 7 WFA Principle Ordinance, where an effect dimension is affected at least to some extent, this impact should be assessed.

22. In the first step, a simplified assessment is used to examine whether the relevant effect dimension will experience significant impacts.

23. If such impacts are to be expected, they must be examined and assessed in greater detail within the context of an in-depth assessment.

24. Pursuant to Section 5 subsection 10 WFA Principle Ordinance, in the course of the impact assessment the budget management body shall coordinate with the affected budget

management bodies in its area of responsibility (for example, in the effect dimension “children and youth”) in order to obtain the information required to conduct the assessment.

25. The participating bodies are obliged, within the framework of their organisational capacities, to cooperate in assessing the impact.

26. The key determinants in the effect dimension “children and youth” are whether aspects such as:

(a) The protection and promotion of the health, growth and development of children and young adults; or

(b) Care for children, support provisions for children and eligible young adults, provision of compensation for costs associated with raising children; or

(c) Securing the future of children and young adults in the medium term are likely to be significantly affected within the framework of the impact assessment.

27. The following materiality criteria are defined for the effect dimension “children and youth” pursuant to Appendix 1 to Section 6 subsection 1 WFA Principle Ordinance.

<i>Subdimension of the effect dimension</i>	<i>Materiality criterion</i>
Protection and promotion of the health, growth and development of young people (up to 30 years of age)	At least 1000 young people are affected
Support provisions, compensation for costs associated with raising children, care for children (up to 18 years)	At least 1000 young people are affected
Securing the future of young adults in the medium term	Financial impact of €1 billion in public expenditure over 10 years or strategies or decisions with implications for life planning are affected for at least 25 years, in particular with regard to fiscal, energy or environmental policy

28. Pursuant to Section 5 subsection 1 of the Impact Monitoring Ordinance, the Federal Government’s Impact Monitoring Unit as part of the Ministry of Civil Service and Sports is responsible for checking the impact information associated with regulatory projects according to Section 17 subsection 1 BHG 2013 (Federal Budget Act), other legislative measures of a fundamental nature according to Section 16 subsection 2 BHG 2013 and projects of extraordinary financial significance according to Section 58 subsection 2 BHG 2013 for compliance with the quality criteria specified in Section 41 subsection 1 BHG 2013 (relevance, consistency of content, comprehensibility, reproducibility, comparability and verifiability).

29. In the event that the quality assurance conducted by the cross-departmental Impact Monitoring Unit reveals serious inconsistencies and shortcomings, they are brought to the attention of the budget management bodies.

30. In accordance with the principle of departmental sovereignty, the department in question shall decide whether the recommendations made by the cross-departmental Impact Monitoring Unit are implemented or rejected.

31. The chosen course of action shall be justified in accordance with the “comply or explain” principle.

32. At the latest five years after the entry into force of the project for which the outcome-oriented impact assessments were prepared, the project’s actual results must be compared against the initial expectations as part of an internal evaluation.

33. This report on the outcome-oriented impact assessment shall be forwarded to the National Council Committee dealing with the preliminary consultation of the Federal Finances Act on 31 May of each year (www.wirkungsmonitoring.gv.at).

Clarification on how the parliamentary decision in 2018 to hand over legislative powers concerning child and youth welfare to the regions (Länder) comply with the Committee's previous recommendation to harmonize child and youth protection laws throughout the State party

34. With the amendment to the Federal Constitution Act, Austrian Federal Law Gazette (Fed. Gaz.) I No. 14/2019, in 2018, an initial package of a federal competence adjustment was passed by a two-thirds parliamentary majority in the National Council and the Federal Council.

35. Competences were divided, especially in matters such as “maternity, infant and youth welfare” where the Federal Government (Bund) had previously been responsible for the basic laws and the regional governments (Länder) for the implementing laws (Section 12 of the Austrian Federal Constitution).

36. The legal allocation of competence does not in itself say anything about the quality of the content of guarantees; in particular, a legal transfer of competence per se means neither a deterioration nor an improvement in the legal situation.

37. Nevertheless, concerns were expressed in the context of the general evaluation process that the intended transfer of competences in child and youth welfare to the regional governments would lead to a deterioration in quality.

38. These fears were countered by the fact that the draft law was amended to the effect that the transfer of the competences on “maternity, infant and youth welfare” to the regional governments should only enter into force under the condition that uniform federal quality standards, such as those contained in the Federal Child and Youth Welfare Act 2013, are ensured by the conclusion of an agreement between the Federal Government and the regional governments (agreement pursuant to Section 15a B-VG) (see the corresponding entry into force provision in Section 151 subsection 63 (5) first clause B-VG (Federal Constitutional Act): “Section 12 subsection 1 in the version of subsection 7a shall enter into force on the date on which an agreement between the federal government (Bund) and the regional governments (Länder) pursuant to Section 15a subsection i on the subject matter of the Federal Child and Youth Welfare Act 2013 - B-KJHG 2013, Fed. Gaz. I No.69/2013, enters into force.”).

39. The regional governments have declared their willingness to do so in advance and are also obliged (under constitutional law) to agree on at least this level of protection (“BACKSTOP” clause) before they acquire this competence.

40. It is explicitly stated in the legislative materials that this is intended “to maintain the existing level of protection in matters of youth welfare” (RV (government bill) 301 BlgNR (Addenda to the Stenographic Protocols of the Austrian National Council) 26th legislative period regarding Section 12 subsection 1 subsection 1 B-VG).

41. Under this agreement pursuant to Section 15a, which will enter into force in 2019, the Federal Government (Bund) and the regional governments (Länder) undertake to maintain and further develop the existing level of protection in child and youth welfare matters.

42. The regional governments are therefore now called upon to implement the committee's recommendations and to take a coordinated approach to further developing child and youth welfare.

Reply to paragraph 3 of list of issues

Measures taken by the State to adopt a coherent policy, strategy and action plan on children's rights, as was recommended by the Committee in its previous concluding observations (CRC/C/AUT/CO/3-4 para. 13)

43. In the course of the parliamentary consultations in the run-up to the ratification process of the Convention on the Rights of the Child (1992), the National Council had requested the then Federal Government to review all legislation relevant to children – with the involvement of independent experts – for its conformity with the Convention and to submit a corresponding report on any reform requirements.

44. In further consequence, based on this Expert Report on the “UN Convention on the Rights of the Child” submitted to the National Council, the Federal Government was commissioned in an ambitious 13-point list to achieve a number of precisely defined objectives specified in detail in the interests of children and adolescents.

45. The Young Rights Action Plan (YAP) published in 2004 essentially captured and further developed the findings of the expert report cited above, for example the recommendations on enshrining the rights of children in the constitution, on the legal definition of “the best interests of the child” or on the introduction of a “child impact assessment”.

46. In 2011, basic principles of the Convention such as the best interests of the child, the right of every child to participation, the right to a childhood free of violence and the right of every child with disabilities to protection and adequate care acquired constitutional status through the Austrian Federal Constitutional Law on the Rights of Children (2011), by which Austria is bound to implement the obligations resulting therefrom.

Information on steps taken to establish a permanent and effective coordination mechanism on the rights of the child at federal and regional (Länder) levels

47. In 2013, the Child Impact Assessment (“Youth Check”) concerning the possible impact of legislative proposals on children was introduced as a mandatory element of the legislative process in order to raise awareness among political decision-makers of certain aspects relevant to children’s rights (see Issue 2).

48. “Children’s rights” are managed and implemented as an all-pervading, cross-cutting topic in the framework of the respective subject-based competence both at federal (Bund) and regional level (Länder).

49. To enhance coordination between the authorities at federal and regional level, coordination mechanisms are in place to coordinate policies between the Federal Government and the regional governments, e.g. the Child and Youth Welfare Liaison Officers’ Conference, the Family Liaison Officers’ Conference, the Conference of Regional Youth Departments, the Refugee Commissioners’ Conference, the Social Workers’ Conference and the Standing Conference of Ombuds offices for Children.

50. Co-operation with government agencies including law enforcement agencies, prosecution services and child welfare offices exists in many forms and at various levels, with some being more institutionalised than others.

51. For example, the Security Police Act obliges the law enforcement agencies to inform the relevant Violence Protection Centre each time they issue an emergency barring order.

52. Acknowledging the need for policy coordination, the decision-makers responsible for legislation and administration at the Federal and State level are increasingly using the Agreement between the Federal Government and the Regional Governments pursuant to Section 15a B-VG as an instrument for cooperation and coordination.

Reply to paragraph 4 of list of issues

Budgeting process allowing for the specific identification of budgets allocated to child-related issues in the relevant sectors and bodies, including indicators and a follow-up system at all levels

53. Austria’s budgeting process allows for the specific identification of budgets allocated to child-related issues by means of Chapter 25 Families and Youth.

54. Chapter 25 administers the Family Burden Equalisation Fund which, in particular, funds expenditures related to family allowance, child care benefit and social security contributions.

55. In total, Chapter 25 administers a budget of approx. €7.1 bn (see below); between 2016 and 2018, the budget increased slightly (+0.4%), in particular in the areas of Child Care Benefit and Social Security Contributions.

Chapter 25 Families and Youth (€ bn)

<i>Detail Budget (selected)</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>Change 2016–2018 EUR %</i>	
Family Allowance	3.45	3.42	3.52	0.07	2.0%
Child Care Benefit	1.17	1.22	1.21	0.04	3.5%
Social Security Contributions	1.55	1.57	1.59	0.04	2.8%
Other*	0.95	0.84	0.82	-0.13	-13.3%
Sum total	7.12	7.06	7.14	0.03	0.4%

* Examples: administrative expenditure, IT expenditure, work services.

56. The Austrian federal budget is outcome-oriented, meaning that budgets are allocated in accordance with desired and agreed outcomes and each chapter containing several stipulated outcomes and corresponding indicators (e.g. examples of outcomes for Chapter 25 are, for instance, to secure the financing of the Family Burden Equalisation Fund, to increase the number of fathers applying for and receiving child care benefits, to contribute towards schoolbooks and public transport for school children and youngsters in vocational training, to foster the reconciliation of family and work life, and to support counselling for families in crisis situations).

Information on measures taken to ensure that the Austrian Ombudsman Board fully comply with the recommendations of the GANHRI Sub-Committee on Accreditation, and is provided with personnel, as well as technical and financial support

57. The Austrian ombudsman board (Volksanwaltschaft) is equipped with a constitutional mandate to protect and promote respect for human rights in public administration.

58. Since 2012, the Ombudsman Board has a firm mandate to protect human rights enshrined in constitutional law.

59. The Ombudsman Board is obliged to investigate every complaint and examine whether there has been maladministration; in addition, the Ombudsman Board is entitled to examine ex officio any maladministration it suspects in administration of the Bund, in particular any violations of human rights it suspects.

60. The subject of this mandate, inter alia, is controlling public and private institutions where people are restricted in their freedom (preventive control).

61. These “places of detention” include prisons, police detention centres, old people’s and nursing homes, psychiatric departments and child and youth welfare institutions.

62. The protection of children and young people in public institutions is a special concern of the Ombudsman Board and was a focal point of its activities in 2017, in which context the Ombudsman Board relies both on complaints and on the expertise of its committees.

63. In December 2017, the Ombudsman Board published a special report on children and their rights in public institutions in order to highlight the challenges facing institutions and individuals, as well as the young people concerned, against a background of violence and experiences of abuse.

64. In 2018, for example, the expert committees of the Ombudsman Board carried out a total of 520 inspections as part of its preventive control framework; 476 inspections were carried out at institutions where people are held.

65. As a rule, inspections take place unannounced in order to obtain as unbiased an impression as possible; only 6% of the inspections were announced beforehand.

66. In 82% of the preventive inspections (428 cases), the committees found themselves criticising the human rights situation.

67. With systemic deficits in particular, the Ombudsman Board refers matters to the competent federal ministries and supervisory authorities to facilitate improvements.

68. This inspection activity therefore results in numerous recommendations and implementation initiatives from the Ombudsman Board with the aim of ensuring and improving human rights standards in a consistent and sustainable manner.
69. The three ombudsmen are elected by the National Council on the basis of a proposal of the three political parties with the most votes, with each being entitled to nominate one member.
70. This appointment procedure guarantees democratic legitimacy, an essential characteristic of parliamentary democracy.
71. The ombudsmen are fully independent and may not be suspended, transferred or removed from office before the scheduled end of their six-year term.
72. The Ombudsman Board's recommendations to the authorities concerned regarding individual complaints, the comprehensive annual report on its activities to Parliament and optional reports on individual observations have proved to be effective tools in raising awareness and are driving the development of adequate solutions forward.
73. The Ombudsman Board, dealing with issues concerning the rights of children on a regular basis, published a special publication on "Young people and their rights" in 2013 and in 2017, placed the focus of its work on "Children and their rights in public institutions".
74. In addition, symposia on the rights of chronically ill children were held, and a special focus was also placed on the situation of unaccompanied minor children.
75. The Ombudsman Board is completely independent in use of the allocated resources (2018: EUR 11,601,000, of which around EUR 6,635,000 was related to personnel expenses and EUR 3,927,000 to operating expenses), so that a predetermined allocation of the budget in different areas (e.g. for child-related topics) does not exist.
76. To fulfil the tasks in accordance with the law implementing the OPCAT, a total of EUR 1,450,000 (unchanged from 2017) was made available for disbursement to the committees and the Human Rights Advisory Board (i.e. the NPM – National Prevention Mechanism) in 2018.
77. Since the last re-accreditation of the Ombudsman Board, work has continued on implementing the recommendations of the Accreditation Subcommittee.
78. The Ombudsman Board fully follows the recommendations; e.g. cooperation with civil society was established at the institutional level through the Human Rights Advisory Council, which entered into force in 2012, in which 16 NGOs are represented.
79. The Ombudsman Board also regularly holds symposia, so-called NGO forums, and acts as a platform for involving civil society in major projects, e.g. at the OSCE self-evaluation.
80. The Ombudsman Board has 78 permanent posts, 14 of which are to fulfil the OPCAT mandate, 56 are committee members, while there are 34 members and deputy members of the Human Rights Advisory Board.
81. Institutionally fully separated, a system of Children's and Young People's Ombuds offices (*Kinder- und Jugendanwaltschaft*) was established by the Federal Youth Welfare Act of 1989 and the corresponding Youth Welfare Implementation Laws of the nine provinces (*Länder*) following the example of the Norwegian Ombudsman for Children which was established in 1981 in Norway as the first country in the world to do so.
82. According to their legal mandate, the main task of the Ombuds offices for Children and Youth is to mediate disagreements between children and their parents or other care-givers by offering support and advice to children, parents, guardians and legal representatives on all matters related to the child and to the tasks of the parents or guardians with the aim of developing solutions concerning the care and education of children between the participating children, parents, guardians and the institutions of public and private child welfare.
83. The coordination body of the ombudspersons for children and youth is the Standing Conference of Ombudspersons for Children and Youth of the Länder, whereas the

Ombudsman for Children and Youth of the Austrian Federal Chancellery has been entrusted by the Länder ombudspersons to deal with international affairs related to children.

84. To safeguard the best interests of the child in all matters affecting the child, the ombudsperson can contact family courts, doctors, schools, or any other administrative body and work closely together with other institutions to find the best solution for the child.

85. The staff of the nine Children's Ombuds offices operating in the provinces (Länder), first and foremost social workers and psychologists, are trained and skilled in dealing with conflicts between the parents and child or between professional careers and the child, or in the case of separation or divorce of the parents.

86. The Ombuds offices for Children and Youth of the nine provinces are equipped with the equivalent of 48 permanent posts.

Reply to paragraph 5 of list of issues

Number of cases, investigations, prosecutions and convictions in which children have been victims of messages inciting hatred on internet and social media platforms

87. The counselling centre #GegenHassimNetz acts as a first point of contact for users of online forums and social media platforms.

88. No nation-wide statistics are compiled on the extent to which children have been victims of hate speech on the internet.

89. In the academic year 2018/19, 107 cases were submitted to the Bullying Coordination Centre, which was set up by the State of Vorarlberg and the Directorate of Education, in addition to numerous contact inquiries.

Cases of bullying in primary schools and special educational support centres	37
Cases of bullying in secondary and polytechnic schools	48
Cases of bullying in federal schools	16
Other	6
Total	107

Activities of the Austrian National Youth Council

90. The Austrian National Youth Council was established by the Act on the Austrian National Youth Council of 1 January 2001 and enjoys the status of a social partner to ensure that the concerns and interests of young people are represented vis-à-vis political and social decision-makers at federal level.

91. The Austrian National Youth Council and its member organisations (all Youth Organisations in Austria) have received the amount of EUR 671,943.12 in 2016 for financing their activities (e.g. campaigns on climate change, child poverty, participation of young people, hate speech etc.), followed by EUR 658,901.24 in 2017 and EUR 614,640.60 in 2018.

Reply to paragraph 6 of list of issues

Implementation of the principle of the best interests of the child by all actors that take actions affecting asylum-seeking and refugee children, including asylum authority, administrative courts and authorities in charge of reception facilities for asylum-seekers

92. Unaccompanied minor aliens are subject to special rules of procedure during the asylum procedure, which must always comply with the principle of the best interest of the child.

93. After the asylum application has been filed, the minor asylum-seeker is assigned a legal advisor by law for the procedure.

94. The legal advisor represents the interests of unaccompanied minors in such legal matters, paying special attention to the well-being of the child.
95. Pursuant to Section 10 BFA-VG (Procedural Act for Federal Immigration and Asylum Service), the legal advisor acts as the legal representative for proceedings at the Federal Office and the Federal Administrative Court (Section 49 BFA-VG) from arrival of the unaccompanied minor at the initial reception centre.
96. If, before the first hearing in the admission procedure, the legal advisor objects to (initial) questioning of a minor who is of age that has already taken place, this must be repeated in the presence of the legal advisor.
97. Unaccompanied underage minors may only be questioned in the presence of his/her legal advisor (Section 10 (6) BFA-VG).
98. Following admission to the asylum procedure, further legal representation passes to the child and youth welfare authority on allocation of the new place of abode.
99. The questioning of minor asylum-seekers must also be carried out with due consideration of the best interests of the child, whereby the questions must correspond to the mental development and maturity level of the minor.
100. As a first step, the applicant's development is assessed, along with a "warming-up" phase, which is designed to minimise any fears of the questioning carried out by the authority and to establish trust.
101. Decision-makers are trained by experts in child psychology to ensure that under-age applicants will be able to present their refugee history in a protected setting during the interview, and that a comprehensive and informed decision can then be made.
102. In 2011 and 2012, the UBAUM I and UBAUM II projects (Support for Authorities in Asylum Procedures for Unaccompanied Minors) were carried out jointly with the UNHCR, developing comprehensive, uniform and binding standards for unaccompanied minors in the procedures in order to take account of the special needs of minors.
103. An age-appropriate information brochure was also prepared, which not only provides legal information about the asylum procedure using a suitable layout and language, but also covers other services such as advice on returning home, Dublin Regulation advice, searching for family members, etc.
104. Unaccompanied minor aliens are generally placed in foster care with the aim of safeguarding the best interests of the child.
105. Foster carers who take in unaccompanied minor aliens are prepared for the particular needs and unique situation of these children by means of a specially designed foster carer course.
106. Where necessary, unaccompanied minor aliens are accommodated in private child and youth welfare facilities or at specially equipped facilities for unaccompanied minor asylum seekers (UMAs).
107. Adequate childcare is offered for underage minor aliens at all federal childcare institutions ("kindergarten-type institutions") as well as suitable leisure activities for children as part of their regular day-to-day care routine.
108. Suitable and competent care personnel with qualified training in education or social fields and at least three years of practical experience in social fields, are employed here.
109. Both full-time employees and voluntary workers must submit a certificate of good conduct and a special "certificate of good conduct for child and youth work" (Section (1a) Criminal Record Act) when they are recruited.
110. Under-age asylum-seekers who are required to attend school have the opportunity of attending bridging classes, which are set up within the federal asylum office, or of participating in regular lessons at selected federal care facilities.
111. The accommodation of unaccompanied minor refugees takes place at two special care centres due to their increased vulnerability, as well as to ensure the best possible care taking child welfare into account.

112. In particular, the care includes an extended daily routine, psychological care, teaching of social skills and additional care measures (school attendance, management of leisure activities under the duty to supervise and educate, conflict prevention, etc.).

113. In the case of unaccompanied minors under 14 years of age, “mother figures” are also employed to offer these youngsters support and care against payment.

114. To safeguard the welfare of unaccompanied minor refugees (UMR) in their quarters, UMR institutions provide benefits pursuant to Section 7 of the Minimum Income Scheme Act, LGBL (Land Law Gazette) No. 64/2010 as amended (i.e. benefits for aliens in need of assistance and protection as provided for in Articles 6 and 7 of the Basic Welfare Agreement).

115. In order for a social educational institution to be approved, it must be equipped and managed to ensure that the children are cared for and educated in such a way that is conducive to their well-being, and the institution must, for example, submit a professionally sound educational concept (Section 25 (4) KJH-G (Child and Youth Welfare Act)).

Information on any plans to amend article 14 of the Austrian Citizenship Act and to allow for the automatic acquisition of Austrian nationality at birth by children born on Austrian territory who would otherwise be stateless

116. An amendment to Section 14 StbG (Austrian Law on Citizenship), such as, in particular, the automatic acquisition of citizenship by stateless children born in Austria, is neither appropriate against the background of the provisions of international law, nor would it be in conformity with the principle of *jus sanguinis* prevailing in Austrian citizenship law.

Reply to paragraph 7 of list of issues

Explanation of the low number of convictions for grooming and cyber bullying following the amendments to sections 107c and 208a of the Criminal Code (StGB)

117. Section 107c of the Austrian Criminal Code – Persistent harassment involving telecommunication or computer systems – was newly introduced with the 2015 act amending the Criminal Code (Fed. Gaz. I No. 112/2015), by which a criminal offence is committed where the honour of an individual is harmed in a manner perceptible to a significant number of persons (Subsection 1 (1)), or facts or images of a highly personal nature of an individual are made perceptible to a significant number of persons without the consent of said individual (Subsection 1 (2)), where performed using a telecommunication or computer system over a lengthy period of time on a continuous basis and in a manner liable to unreasonably impair the lifestyle of an individual.

118. With regard to the interpretation of the term “over a lengthy period of time on a continuous basis”, the following was specified in the explanations (RV 689 BlgNR 25th legislative period 19f): “The interpretation of the term “over a lengthy period of time on a continuous basis” must be based on the circumstances of the individual case. In certain cases therefore, a person could commit harassment within the meaning of the provision on a single occasion and this may already be sufficient to fulfil this criterion. Section 107c StGB relates to a persistent offence which may also be committed by omission. Criminal liability pursuant to Section 107c StGB may apply, for example, in cases where an individual publishes nude photos of the victim on the internet without the victim’s consent and does not delete them for a prolonged period of time, provided that the other requirements are met. In any event, a persistent offence cannot exist where the perpetrator is unable to delete the images, or where others duplicated these and passed them on before their prompt deletion, for example. In the case of less serious acts, it is necessary to carefully examine in each case whether an offence can be described as being committed “over a lengthy period of time on a continuous basis” only if the act is repeated several times. In the case of harassment by e-mail, SMS or telephone calls, repeated acts are required.”

119. This position has not been enforced, however, as it is argued that, while Section 107c StGB may be understood to relate to a persistent offence, the wording “on a continuous basis” always requires multiple acts.

120. This means in practice, for example, that cases in which someone places a nude photograph of another person on the internet are not currently covered by Section 107c, even where rendered perceptible to third parties over a lengthy period of time.

121. The need for legislative changes to be made to the element of commission on a continuous basis is currently being examined.

122. Section 208a StGB – Initiation of sexual contact with minors – is conceived as a “preparatory crime” in relation to the punishable acts pursuant to Sections 201-207a StGB.

123. Criminal liability pursuant to Section 208a therefore ceases to apply as soon as the offender has committed – or at least attempted to commit – the envisaged offence pursuant to Sections 201-207a (1) No. 1 or (3) and (3a) (1a) StGB.

Update on the impact of the activities, enumerated in paragraphs 129–134 of the State party report, and of data on the level of awareness of the prohibition on corporal punishment amongst children, parents, teachers and other professionals working with and for children, disaggregated by age, sex, nationality, disability and region (Länder)

124. Austria takes great pride in pointing out that in Austria, children are seen as individual holders of rights through the Constitutional Act on the Rights of Children, which – *inter alia* – made the right of every child to an upbringing free of violence constitutional in 2011.

125. With the resolution “Towards Childhoods free from Corporal Punishment” adopted at the High Level Global Conference, Vienna 2016, and supported by Marta SANTOS PAIS and Paulo Sergio PINHEIRO, the high-level representatives of the countries attending the conference have committed themselves to establishing a reliable system of data collection and to encouraging, and where appropriate, commissioning research to measure progress towards the elimination of violent punishment of children and towards full respect for their status as individual people and holders of rights.

126. In order to track progress of the ban on corporal punishment by assessing societal changes in attitudes towards violence against children, the results of the recent survey “Childhood free from corporal punishment 1977-2014-2019” was presented at the official event celebrating the 30th anniversary of the “UN Convention on the Rights of the Child” on 19 November 2019.

127. In further pursuit of creating a more peaceful, secure future and a violence-free world for children and in line with the Sustainable Development Goals (SDGs), Austria will together with other like-minded EU member States – Germany, Latvia, Lithuania, Poland, Slovakia and Spain – increase its efforts to establish a “Violence-free Zone Europe”, where children can grow up safe from violent punishment.

128. The project proposal, which was submitted to the EU Commission in June 2019, aims to sensitise parents, guardians and professionals who work with children – for example teachers, social workers, etc., involving all relevant actors in a participatory approach centred around children’s rights.

129. The results of the project Life FREE from violence, completed in 2015, are available on <http://aewaltfreileben.at/de/material/infopackages>.

130. 2017–2018 saw the execution of a study on the subject of “Internet Violence against Women and Girls in Austria”, as well as the design and implementation of a series of specialised workshops.

131. In 2018 the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice produced an information brochure “Parental Custody and the Rights of Children” in cooperation with the Ombuds office for Children and Youth.

Reply to paragraph 8 of list of issues

Measures taken to encourage child victims to report instances of violence, abuse and neglect, in particular by clergy and in sports associations, and provide up to date data on the number of reports received and action taken thereon

132. The police have implemented a wide range of policies relating to the prevention of violence. With 50 prevention officers trained in this area, crime prevention works to shed light on the actions taken by the police, courts, child and youth welfare and other organisations in relation to the prevention of sex crimes, and thus to create a basic level of understanding by offering lectures aimed at adults, teachers, educators, trainers, etc.

133. In the framework of the UNDER18 prevention programmes, there are currently 400 prevention officers across Austria working with young people in the field of crime prevention.

134. The presentations as part of the police prevention project “Safety in Public Spaces” focus on the prevention of sexual and physical assaults in public spaces, with a focus on women and girls aged 16 and over.

135. The Federal Chancellery promotes and grants financial support to various counselling services throughout Austria – in particular child protection centres – which have joined forces via the “Platform against Violence” forum and offer measures for prevention, assistance and strategies for victim protection in the area of violence against children.

136. In addition, brochures are published and distributed to specific target groups, such as the “Guidelines for the Prevention of Violence in Social Educational Institutions” and the guidelines for teachers “Recognising Violence against Children and How to Help”; the website www.gewaltinfo.at is also aimed at raising awareness, preventing violence and providing assistance in cases of violence.

137. Child protection centres, which are networked with all relevant institutions (child and youth welfare offices, courts, hospitals, etc.), provide rapid support with no red tape, also offering open-access assistance.

138. Specialists in psychotherapy, psychology and social work, among others, serve as points of contact for affected children and relatives, teachers and all those who require assistance or suspect violence by virtue of their special training.

139. The statistics on child and youth welfare show that 38,347 risk assessments were initiated nationwide in 2018.

140. The Federal Ministry for the Civil Service and Sport has joined the Council of Europe campaign Start to talk by co-producing the video-spot in German with the intention of encouraging affected children and young people to turn to trusted persons if they feel exposed to sexual assault and harassment.

141. The Vorarlberg Federal State Administration, in cooperation with the Vorarlberg Football Association, has co-financed a series of videos aimed at preventing sexual violence in sport.

Constitutional amendment of December 2018 shifting the responsibility for child and youth welfare to the regions (Länder), and explain how the right to equal treatment and quality control of alternative care institutions and family type alternative care is upheld, both in law and in practice

142. With the amendment to the Federal Constitution Act (Fed. Gaz. I No. 14/2019), competences in matters of child and youth welfare have been divided so that the Federal Government is no longer responsible for basic laws, and legislative powers have been transferred entirely to the authorities of the Länder (see Issue 2.2).

143. The supervision of socio-educational institutions and of foster carers as well as the detailed definition of quality standards and quality assurance measures will continue to be the responsibility of the public child and youth welfare services of the Länder.

Reply to paragraph 9 of list of issues

Measures taken to establish inclusive education for children with disabilities, to de-institutionalize children with disabilities and efforts to establish a countrywide system for monitoring children's health status

144. In general, support staff are provided in schools to help facilitate integration into mainstream schools.

145. The inclusion of children with disabilities has been a widely discussed topic in schools, and implementation measures have already commenced in certain areas of the education sector, however, the Vienna Monitoring Committee refers to its recommendation of 25 July 2013 "Recommendation on the Stage Plan for the Reduction of Structural Barriers of the City of Vienna" (www.monitoringstelle.wien/assets/uploads/EmpfehlungEtappenplan.pdf).

Nation-wide enrolment in the first mandatory kindergarten year in the regions (Länder), disaggregated by sex, age, disability, and nationality of the child. Please also update the Committee on the implementation of the second compulsory kindergarten year

146. The free half-day of mandatory kindergarten for five-year-olds will be continued for the kindergarten years 2018/19 to 2021/2022.

147. Mandatory kindergarten for 5-year-olds has proven its worth since its introduction in the kindergarten year 2010/11.

148. Since then, the childcare rate for five-year-olds has increased by 1.9 percentage points to 98.2%, and the proportion of children without German as a first language has risen by 7.4 percentage points (2017/18: 30.2%).

149. While it is not possible to provide precise gender and nationality data for the mandatory kindergarten year, the following figures are available for kindergartens in general.

Gender	48.5% female	51.5% male
Nationality	82.2% Austrian	17.8% other nationality

150. Over the time period observed, there has been a decline in the number of exemptions granted and the number of administrative penal proceedings for violating the obligation to attend kindergarten, which is a testament to the general acceptance of this measure among the population.

151. The Federal Government will continue to provide EUR 70 million to the Länder per kindergarten year.

152. On the other hand, the advisory session for parents whose 4-year-old children are not yet in kindergarten, has not proved successful. Here parents are advised of the positive impact that attending an early-years educational institution will have on their child's cognitive, linguistic, physical and social development.

153. The experiences gained, in addition to the stabilisation of the childcare rate at a high level (96.4%), have resulted in this measure being removed from the agreement between the Federal Government and the Länder, and have led to the decision not to introduce a second mandatory kindergarten year.

154. Children who have reached the age of 5 as well as children who have reached the age of 4 and require language support are required to attend kindergarten and will be required to attend school the following year.

155. In the province of Vorarlberg, the childcare rate for children aged 4 to under 5 and 5 to under 6 is 100%, and in 2018/19 a total of 9,901 children attended kindergarten, including 211 (142 male, 69 female) children with disabilities; of these 9,901 children, 3,958 were 5-year-olds attending their mandatory kindergarten year.

Nationality data for children attending kindergarten (Vorarlberg)

8 221	Austria	Croatia	59
368	Germany	Romania	52
284	Turkey	Afghanistan	48
197	Syria/Arab Republic	Asia	48
148	Other EU countries	Italy	41
98	Russia	Africa	35
85	Hungary	Poland	26
71	Serbia/Montenegro	Iraq	24
64	Other European countries	America	24
60	Bosnia-Herzegovina	Unknown	24

Reply to paragraph 10 of list of issues**Measures taken to ensure that all unaccompanied asylum-information on the use of standardized multidisciplinary procedure in age assessment in migration and asylum processes**

156. Age assessment is regulated in Section 2 (1) No. 25 AsylG (Asylum Act) and Section 13 (3) BFA-VG.

157. Where an alien claims to be a minor in proceedings before the Federal Office or the Federal Administrative Court and this claim is doubted based on the results of the investigation procedure available to date, in the event that the claimant's age cannot be established on the basis of trustworthy documents or other suitable and equivalent means of certification, the Federal Office or Federal Administrative Court may order an age assessment within the framework of a multifactorial investigation methodology.

158. This model for age assessment, based on three separate medical examinations (in particular physical, dental and X-ray examinations), is in line with the latest scientifically approved methods.

159. An age assessment may be ordered only in cases of doubt as to the applicant's claimed age and only as a last resort. Each examination must be as minimally invasive as possible. The applicant cannot be forced to participate in an age assessment. Failure to participate will, however, be assessed with regard to the applicant's duty to cooperate and within the framework of credibility during the proceedings.

160. If there are any doubts as to the age of the applicant even after the medical examinations have been carried out (i.e. if the results of the investigation or assessment are inconclusive), the applicant must be given the benefit of the doubt; the principle of *in dubio pro minore* shall apply. This shall not apply, however, if the applicant has previously refused the investigation.

161. Placing unaccompanied minor refugees in two specialised care centres intended exclusively for the care of UMRs allows care workers to address their particular needs and high vulnerability.

162. Care is provided 24 hours a day – each UMR has his or her own care worker who acts as a point of contact for all issues.

163. If an asylum seeker claims to be a minor, this must be taken into consideration when arranging their accommodation (specialised care), as well as during the proceedings (need for a legal representative).

Reply to paragraph 11 of list of issues

Measures taken to ensure that children under 18 years cannot be detained for immigration purposes, including if they are with their parents or legal guardian

164. In Austria, special regulations apply to the detention of minors. Section 76 (1) FPG (Aliens Police Act) states that underage minors (minors under the age of 14) may not be held in detention pending deportation.

165. The authorities shall apply more lenient measures to minors up to the age of 18, unless specific facts justify the assumption that the purpose of detention pending deportation cannot be attained in this manner.

166. More lenient measures may include an order to take up accommodation in housing determined by the Federal Office for Immigration and Asylum (BFA), to report periodically to a state police department or to deposit an appropriate financial security with the office (Section 77 (3) FPG).

167. In cases in which detention pending deportation is imposed on a minor, this decision must be justified in detail and may be taken only if accommodation and care appropriate to the child's age and stage of development can be guaranteed (Section 79 (2) FPG).

168. Underage detainees are generally held separately from adults unless they are housed together with their parents or legal guardian, or in cases in which this is not in their best interests.

169. There is also a detention facility in the specialized family accommodation Zinnengasse which is specially designed to accommodate families.

Number of inspections carried out pursuant to Section 9 (1) of the Child and Youth Employment Act (KJBG) and inform the Committee of notifications received under Section 9 (2) of the KJBG, concerning non-compliance with the child labour provisions

170. Pursuant to Section 3 (1) No. 2 Labour Inspection Act, the Labour Inspectorate is the authority appointed to provide legal protection to employees and to support and advise employers and employees in the implementation of employee protection.

171. Through its activities, the Labour Inspectorate must contribute to ensuring that the health and safety of employees is protected and that appropriate measures are taken to ensure effective employee protection.

172. To this end, the Labour Inspectorate shall support and advise employers and employees where necessary and monitor compliance with the legal provisions and government orders aimed at protecting employees, in particular those relating to the employment of children and young people.

173. Pursuant to Section 17 (3) ArbIG (Work Inspection Act), at least one labour inspector for child labour and the protection of minors shall be appointed at each Labour Inspectorate for the specific purpose of monitoring compliance with the regulations for the protection of children and minors.

174. The following data relates to the monitoring of child labour and youth employment and complaints concerning prohibited child labour and youth employment for the period 2010–2017.

Child labour; employment of young people in the years 2010–2017

Year	Number of inspections ¹	Number of complaints ¹	
	Child labour and employment of adolescents	Forbidden child labour	Employment of adolescents
2010	3 558	2	1 207
2011	2 684	4	1 461

¹ Statistics relating to the monitoring of child labour and youth employment are recorded together.

Year	Number of inspections ¹	Number of complaints ¹	
	Child labour and employment of adolescents	Forbidden child labour	Employment of adolescents
2012	3 781	4	1 636
2013	3 108	3	1 990
2014	3 793	1	2 000
2015	4 499	7	1 456
2016	3 980	1	1 322
2017	3 739	5	1 354

Source: Labour Inspectorate data 2010–2017.

Reply to paragraph 12 of list of issues

Plans to establish specialized reception facilities for child victims of human trafficking and clarification how article 10 of the Criminal Code, which exempts victims of human trafficking from criminal responsibility under certain circumstances, is implemented with respect to child victims

175. The “Drehscheibe”, a specialised section of the Vienna Youth and Family Office dealing with child victims of human trafficking, is the only one of its kind in the country. In 2015, the Anti-Trafficking Coordination Unit was set up in the province of Tyrol. Its staff are trained and skilled in dealing with child victims of human trafficking.

176. The Working Group on Child Trafficking under the Task Force on Combating Human Trafficking, which established the National Referral Mechanism on identifying and working with potential victims of child trafficking in 2016, commenced the task of developing a concept for a nationwide reception facility for child victims of human trafficking in 2018.

177. In February 2017, a decree was issued to the public prosecutor’s offices and the courts on the subject of “refraining from penalising victims of human trafficking who have committed crimes as a state of emergency – Section 10 StGB”; among other points, the decree deals with the issue of underage victims of human trafficking.

178. According to the decree, persons under the age of 18 are recognised as victims of trafficking even if they have not been forced to engage in illegal activities by improper means (use of force or dangerous threat, fraud, abuse of authority, vulnerability, mental illness or a condition rendering the person defenceless, intimidation and the granting or accepting of an advantage for the surrender of control over the individual).

Measures taken to ensure that pre-trial detention of children is used only as a measure of last resort, for the shortest time necessary and on measures to provide alternatives to detention

179. The Juvenile Courts Act pursues as an important objective that young people are detained only as a measure of last resort, and only for the shortest time necessary. This is supported by the fact that particular attention has been given to the principle of proportionality and this has been legally safeguarded, above all in juvenile criminal proceedings.

180. The following favourable special provisions for juveniles in conflict with the law shall be highlighted: in cases in which only a very modest penalty is imposed (jurisdiction of the district courts), no pre-trial detention may be ordered (Section 35 Subsection 1a JGG (Juvenile Courts Act)); this minimises detention periods, which are detrimental in social terms.

181. Even in cases where a particularly serious offence is suspected, pre-trial detention may only be imposed on juveniles (unlike adults) subject to the provision of evidence of grounds for detention (Section 35 (1b) JGG; in other words, not in cases where the existence of grounds for detention cannot be excluded).

182. The exceptional nature of pre-trial detention is also underscored by the fact that public prosecutors and judges are given greater scope in decision-making in order to ensure that the alternatives to detention are actually exercised.

183. Social network conferences have been enshrined in law for such purpose (Section 35a JGG) as a new methodological approach to social work, which can be traced back to the family group conference model initially developed in New Zealand.

184. The model is based on the assumption that young people who are in a crisis phase of their lives (manifesting above all in the commission of criminal offences) are themselves sufficiently competent to take decisions and solve problems.

185. The aim of social network conferences is to involve the young person's social circle (parents, other family members, friends, neighbours, teachers, etc.) in overcoming their crisis, dealing with their conflicts and helping support them to avoid committing crimes in the future.

186. The Juvenile Courts Act Amendment 2015 enshrined two types of social network conference in law: the pre-trial detention conference and the release conference.

187. The purpose of the pre-trial detention conference is to create an appropriate basis for decision-making and to actively work towards the abolition of pre-trial detention in favour of the use of less stringent measures.

188. The purpose of the release conference is to lay the foundation for the possibility of release from prison (Section 29e of the Probation Assistance Act).

189. The provisions on social network conferences also apply to young adults (i.e. persons who have reached the age of eighteen but who are not yet twenty-one; Section 35a in conjunction with Section 46a (2) JGG).

190. The inclusion of young adults in the JGG was one of the main reform points of the JGG-ÄndG 2015 (law amending the Juvenile Courts Act) (Fed. Gaz. I No. 154/2015).

191. This took account of the fact that the adolescent crime crisis – so called because a large proportion of crimes are committed by young people – continues to affect young people up to the age of at least 21.

192. Since criminality tends to decrease significantly as young people become older (up to the age of around 25), it is more important to address personality factors than to consider general preventive measures. In addition, it is also necessary to extend certain regulations, which previously only applied to young people, to this age group.

193. In clarifying the question of detention, it is necessary to obtain the opinion of the juvenile court assistance service (Section 35a (1) second sentence JGG) as to whether it would be useful to hold a social network conference even in cases where this has not yet been ordered by the courts.

194. In an effort to support public prosecutors' offices and the courts, the JGG-ÄndG 2015 established juvenile court assistance services throughout the country (Section 47 et seq. JGG).

195. In addition to envisaging the preparation of a detailed report about the young person in question, the JGG also provides for decision-making support in matters of imprisonment and intervenes in cases where the accused is in the midst of a recognisable crisis.

196. In all criminal cases against juveniles and young adults it is obligatory to obtain information on the respondent's living situation from the juvenile court assistance service (standardised report).

197. Only in cases in which a more detailed examination of the accused appears to be legally superfluous – taking into account the nature of the offence – can the preparation of such a report be dispensed with.

198. Reports are prepared by social workers and psychologists and provide the prosecutors and judges responsible for juvenile and young adult criminal cases with an overview of the accused's character.

199. This allows for better and more meaningful decision-making in compliance with all requirements of juvenile justice proceedings in Austria.

200. A provisional report is drafted as quickly as possible – based on the information available at short notice – in order to facilitate detention decisions.

Part II

Reply to paragraph 13 of list of issues

New bills, laws, institutions or recently introduced policies, programs and action plans etc.

201. Section 17a was added to the Asylum Act 2005 (Fed. Gaz. I No. 56/2018) establishing a legal fiction for applications relating to unmarried minor children of asylum seekers, according to which an asylum-seeker who has submitted an application for international protection, is also deemed to have filed and submitted an application for international protection for each unmarried minor child resident in the federal territory who is a national of a third country and who has no right of residence under the Asylum Act 2005 or another federal law.

202. In addition, the amendment provides that in cases where the child of a third-country asylum-seeker or foreign national who is illegally resident in Austria following the legal conclusion of their asylum procedure is born in Austria, the birth must be reported to the Federal Office for Immigration and Asylum (BFA).

203. An application for international protection for the child shall then be deemed to have been filed upon registration of the birth; the same shall apply where the Federal Office obtains knowledge of the child's birth by other means.

204. The provision takes account of the interests of the minor alien by accelerating the procedure, thus allowing for more rapid clarification of the child's asylum status.

205. An amendment to Section 38a Security Police Act (SPG) regarding emergency barring orders and restraining orders to protect against violence was submitted to parliament on 3 July 2019 as a draft law in the form of a motion entitled "Protection against Violence 2019" and adopted on 25 September 2019 by the National Council (Fed. Gaz. I No. 105/2019).

206. The amendment to Section 38 (1) SPG aims to redefine the area of protection associated with emergency barring orders and also restraining orders. The home of a victim and the area around the victim's home up to a radius of fifty metres must not be entered by the perpetrator (emergency barring order).

207. In so far as the victim is an underage minor, in addition to the home and its vicinity, the barring order also previously applied to named institutional schooling and childcare facilities, such that any affected mature minors outside the home or these named facilities did not receive any special protection.

208. From now on, barring orders should always be accompanied by a restraining order which prohibits the perpetrator from coming within fifty metres of the victim to the effect that the statutory area of protection will always move with the victim – regardless of whether they are in school, at work or travelling.

209. What is more, Section 38 (4) SPG substantially broadened the duty of public security services to provide information in connection with minors in order to be able to more effectively meet this special need for protection and to take better account of the changed scope of Section 38a.

210. Previously, the head teacher of a school or leader of an institutional childcare facility or playgroup attended by an at-risk minor had to be notified.

211. Where a minor is at risk in future, all those who provide regular care to the minor during the measure (such as childminders or relatives providing care) should be informed of the barring and restraining order where this is deemed necessary.

212. Similarly beyond the current scope of the information obligation, in accordance with subsection 4 (2) the local child and youth welfare authority should in future be informed immediately if a minor is living in a home covered by a barring order.

213. With the entry into force of Federal Gazette I No. 59/2017, the scope of the Home Residence Act (HeimAufG) (Fed. Gaz. I No. 11/2004), was extended to institutions for the care and upbringing of minors with effect from 1 July 2018.

214. Previously, such institutions were excluded from the scope of the Home Residence Act, with the result that their physically disabled or mentally ill underage residents were denied judicial legal protection from restrictions on their freedom.

215. On 20 June 2019, the Establishment Act for the establishment of a federal agency for care and support services (BBU-G) was enacted and the federally owned agency entrusted with the following tasks:

216. Provision of basic services according to Articles 6 and 7 of the agreement between the Federal Government and the governments of the nine provinces (Länder) pursuant to Article 15a of the Federal Constitutional Law on joint measures for temporary basic welfare for aliens requiring help and protection (asylum seekers, persons qualifying for asylum, displaced persons and others who de jure or de facto cannot be deported) in Austria (Basic Welfare Agreement – Section 15a B-VG (Fed. Gaz. I No. 80/2004), in so far as this is the responsibility of the Federal Government:

- Provision of legal advice:
 - Before the Federal Office pursuant to Section 49 BFA-VG, Fed. Gaz. I No. 87/2012, as well as;
 - Before the Federal Administrative Court pursuant to Section 52 BFA-VG;
- Implementation of advice and assistance with returning home in accordance with Section 52a BFA-VG;
- Provision of human rights monitors for the purpose of systematically monitoring deportations pursuant to Section 46 (6) FPG 2005, Fed. Gaz. I No. 100/2005, as well as;
- Provision of interpreters and translators within the context of proceedings pursuant to Section 3 subsection 2 (1)–(4) and (7) BFA-VG before the authorities and the Federal Administrative Court.

217. The federal agency will take over its first area of responsibility for implementing basic welfare on 1 July 2020, followed by all other areas of responsibility on 1 January 2021.

218. The BBU-Errichtungsgesetz (BBU-G), the act providing for set-up of the agency for care and support services, only saw the introduction of an institutional change; applicable national and international legal norms serve as guidelines for action for the federal agency.

219. Since 2011, the Federal Government has supported long-term care in the regions (Länder) and municipalities with grants from the Care Fund (Fed. Gaz. I No. 57/2011) in an effort to cover growing costs in the area of care and nursing services.

220. Since amendment of the Long-Term Care Allowance Act (PFG) in 2013 (Fed. Gaz. I No. 173/2013), it has also been possible to use these funds for relevant quality assurance measures and innovative projects, with priority being given to the implementation of innovative measures in children's hospices and paediatric palliative care.

221. In implementing the recommendations of the parliamentary enquiry commission and the pact on financial equalisation starting in 2017, the Long-Term Care Allowance Act (PFG) was amended (Fed. Gaz. I No. 22/2017) to the effect that under Section 2 (2a) PFG an additional EUR 18 million per annum is to be earmarked for the qualitative and quantitative expansion of hospice and palliative care services for adults as well as for children, adolescents and young adults for the duration of the financial equalisation period 2017 to 2021.

222. The funds are provided in equal parts by the Federal Government, the regional governments (Länder) and the social security institutions and are to be used for both qualitative and quantitative improvements.

223. As regards quantitative expansion, the funds can be used for mobile palliative teams/mobile children's palliative teams, hospice teams/children's hospice teams, in-patient

hospices/in-patient children's hospices, day hospices and palliative consultation services. As regards qualitative expansion for adults as well as children, adolescents and young adults, the funds are to be used for advanced training courses or research projects, for example.

224. In order to create uniform standards for assessing the care requirements of children and adolescents for decision-makers and the courts, a dedicated regulation was issued on the assessment of the care requirements of children and adolescents in accordance with the Austrian Federal Care Allowance Act (Child Categorisation Regulation to the Long-Term Care Allowance Act – Kinder-EinstV, Fed. Gaz. II No. 236/2016), which was introduced on 1 September 2016.

225. On the one hand, the Child Categorisation Regulation sets age limits above which natural care requirements can no longer be accepted and, on the other hand, it sets fair values which should generally be used for assessing care requirements.

226. As of 31 December 2018, a total of 9,381 children and adolescents under the age of 16 received a long-term care allowance.

227. Contributions towards the cost of substitute (respite) care make it easier for close relatives of recipients of long-term care allowances to avail themselves of respite from care and to organise and pay for suitable substitute care during their absence.

228. The opportunity to take "time-out" from caring can provide noticeable relief for carers, which ultimately benefits the quality of care and thus also serves quality assurance.

229. The Federal Ministry of Labour, Social Affairs and Consumer Protection may fund up to four weeks of respite care measures per calendar year if:

- The carer has been the primary carer for a close relative who requires care for a period of at least one year;
- The person in need of care has been entitled to a care allowance at a minimum of level 3 for at least one year; in the case of care of an underage relative or a relative affected by dementia, a level 1 care allowance shall be sufficient;
- The carer is prevented from providing care for at least one week – at least four days for minors or persons affected by dementia – because of illness, leave or other important reasons, and;
- The carer receives a net income of less than eur 2,000 (for relatives with care allowance levels 1 to 5) or eur 2,500 (for relatives with care allowance levels 6 or 7).

230. Due to the particular challenges associated with caring for minors, the maximum allowance was increased by EUR 300 as of 1 January 2017.

231. In cases when there is a sudden need to care for a close relative or a carer needs to be relieved, compassionate care leave can be agreed with the employer for a period of one to three months under following conditions:

- Care and/or support of a close relative in receipt of a long-term care allowance at level 3 or higher; or
- Care and/or support of a close relative who is a minor or who is affected by dementia and in receipt of a long-term care allowance at level 1;
- Declaration that the individual in question is the main person responsible for care or support for the duration of the compassionate care leave or part-time compassionate care leave;
- Written agreement with the employer regarding compassionate care leave or part-time compassionate care leave – subject to uninterrupted employment of at least three months immediately prior to claiming compassionate care leave or part-time compassionate care leave – or
- Withdrawal from unemployment benefit and emergency assistance.

232. There is a legal claim to paid compassionate care leave for the period of compassionate care leave. The basic amount of the allowance for compassionate care leave is means-tested and is the same level as unemployment benefit.

233. Only recently were the youth laws of the states harmonised, providing for e.g. the increased participation of children and young people, the abolition of curfews for young people over the age of 16, an extension of the ban on tobacco to include related products such as electronic cigarettes and e-shishas, orders for community services instead of imposition of fines (e.g. law amending the Vorarlberg Youth Law, Land Gazette No. 26/2017).

234. The law amending the Child and Youth Act (Land Gazette. No. 63/2018) is aiming at the implementation of the resolutions of the Conference of State Youth Officers on the harmonisation of regulations relating to the protection of minors in the federal states regarding curfews, alcohol and smoking.

235. To this end, the curfews for children and adolescents up to the age of 16 have been adjusted and the minimum age for smoking has been raised to 18.

236. With the law amending the Child and Youth Welfare Act (Land Gazette. No. 46/2019) the existing obligations for childcare facilities within the meaning of this Act under the agreement pursuant to Section 15a B-VG between the Federal Government and the Länder regarding primary education for the kindergarten years 2018/19 to 2021/22 at Länder level should be implemented.

237. In addition to adjustments in the area of statutory educational requirements, in relation to compulsory attendance and in connection with the supervision of childcare facilities, a ban is proposed which would prevent children from wearing ideological or religious clothing which covers the head in childcare facilities which provide pre-school education.

238. The law amending the Kindergarten Act (Land Gazette. No. 45/2019) also essentially implements the obligations arising from Section 15a of the aforementioned B-VG Agreement at Länder level.

Part III

239. Data, statistics and other information are available on the Factbook “Children in Austria”.
