

**PERMANENT MISSION OF AUSTRIA TO THE UNITED NATIONS
MISSION PERMANENTE DE L'AUTRICHE AUPRES DES NATIONS UNIES**

No. New-York-ÖV/RECHT/0334/2011

The Permanent Mission of Austria to the United Nations presents its compliments to the Secretariat of the United Nations and with reference to its note Ageing/2011/CM/JS/is of 3 February 2011 has the honour to transmit attached to this note Austria's answers to the questionnaire on the situation of the rights of older persons.

The Permanent Mission of Austria to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration. /

New York, 28 April 2011



To the
United Nations Headquarters
Office of the High Commissioner for Human Rights
DC1-0511
New York, NY 10017

600 Third Avenue, 31st Floor, New York, N.Y. 10016
E-Mail: new-york-ov@bmeia.gv.at
Tel.: (+1) 917 54 28 400

Questions 1-3:

Austria protects human rights, including the human rights of older persons, in its Constitution and in numerous individual laws. Article 6 of the Treaty on the European Union calls on Member States to respect human rights and fundamental freedoms as guaranteed by the European Convention for the Protection of Human Rights and Basic Freedoms of the Council of Europe and as anchored in the constitutional traditions of the Member States. The EU thus recognizes the main human rights treaties under international law, which have been ratified by all EU partners.

Discrimination against older persons appears in many different ways: for example in pejorative language, in stereotyped and onesided media coverage (elderly people are mostly portrayed as a burden for the pension system) or in insufficient access to knowledge and life-long learning for older people. The Federal Ministry for Labour, Social Affairs and Consumer Protection has taken many different measures to address and focus on the positive aspects of longevity and its opportunities. With this purpose in mind, for example a documentary was produced, which tries to show and contribute to a holistic image as well as a new view of ageing. Based on the real-life-situation of 83-year-old men and women, the film shows the variety of circumstances of older persons and demonstrates that older as well as handicapped people can live a life in dignity. The film is presented throughout Austria and followed by a panel discussion which serves as a starting point for a discussion about dealing with ageing and creating more positive images of older people.

Question 4:

In order to sensitise the population for abuse towards older people, the Federal Ministry for Labour, Social Affairs and Consumer Protection publishes a set of brochures/folders. In 2009, the folder "Recognize Abuse. Questions and Answers to Abuse towards older People" was published with a run of 50.000 examples. The folders were distributed to doctor's practices, pharmacies and hospitals. In 2010, a second folder entitled "Recognize Abuse. Questions and Answers to Dementia and Abuse" was published (see also question 3 about multiple discrimination). The production of folders will be continued in 2011. Another major focus for 2011 is to provide inclusive consulting services concerning "Abuse towards older People". Based on a curriculum, advisers in facilities and organizations that are frequented by older people seeking for advice on violence (e.g. Seniors Citizens' Organizations) will be further qualified and trained.

Question 5:

Adult and continuous education:

In a working and living environment that is subject to constant change driven by new insights and technologies, the ability to acquire, evaluate and apply new skills and knowledge on an ongoing basis is turning into a key factor that determines the opportunities for older people to participate in social, political, economic and cultural life.

The more these opportunities for participation in society and the economy depend on a person's access to knowledge and education, the more important it becomes to ensure access for older people to life-long learning. Life-long learning comprises learning for personal, social and occupational reasons. It may be pursued in a range of different environments, within or outside formal educational systems. Promoting life-long learning means investing more in humans and their knowledge, supporting the acquisition of basic qualifications and smoothing the path for innovative and more flexible forms of learning – always considering genderspecific differences and the differences in needs resulting thereof. Austrian policies in the field of life-long learning in later life include:

- the funding of basic research in the field of life-long learning in later age
- financial support of NGO's that provide access to information, counselling and education in later life
- financial support of further education for trainers in adult education.

Question 6:

Please see attached document: Social protection in Austria 2010

Question 7:

The Federal Statistics Act of 2000 defines federal statistics as a (non-personal) information system of the government providing data on the economic, demographic, social, ecological and cultural situation in Austria. This information helps administrative bodies in planning and political decision-making procedures, as well as in controlling the measures they have taken. Moreover, data are made available to the scientific and economic communities and to the general public. Federal statistics comprise the compilation of statistics of all kinds as well as analyses, prognoses and statistical models, which reach beyond the interests of an individual Austrian province. The statistics are decreed by international legal acts of the European Community, by federal laws and by regulations. These statistics provide information disaggregated by age. In addition, studies and analyses are commissioned by the Federal Ministry for Labour, Social Affairs and Consumer Protection in the field of basic research on the living conditions of older people in Austria.

Question 8:

A key element of Austrian senior citizens policy is creating opportunities for older people to have an equal voice in all issues affecting them. Austria pursues the principle of a policy, which is not only for, but developed and implemented together with older people.

The Federal Senior Citizens Act

The Federal Act on the Promotion of the Interests of the Older Generation (Federal Senior Citizens Act) brought about the establishment of the Federal Senior Citizens Advisory Council for the representation of the interests of the older generation vis-à-vis political decision-makers at the national level, and the General Promotion of Senior

Citizens, which secured the financing of advice, information and support for senior citizens via the senior citizens' organisations.

Federal Senior Citizens Advisory Council

The principle of a policy, which is not *for* but together *with* older people, is implemented by means of the Austrian model of participation for older people. The first step towards strengthening the participatory opportunities of the older generation was taken with the Federal Senior Citizens Act in 1998. The Federal Senior Citizens Advisory Council was established by the Federal Act on the Promotion of the Interests of the Older Generation (Federal Senior Citizens Act) in 1998. Since the amendment to the Federal Ministries Act in the year 2000, the Federal Senior Citizens Council has been based in the Ministry of Labour, Social Affairs and Consumer Protection. As provided for by this law, the Federal Senior Citizens Council is employed as an active control mechanism of senior citizens and generations policy in Austria. The tasks of the Federal Senior Citizens Advisory Council include:

Making proposals for social, economic, health policy, housing policy and cultural measures in senior citizens policy;

The drawing up of a long-term senior citizens plan;

Making statements on draft bills and regulations, which might affect the interests of senior citizens.

The Federal Senior Citizens Advisory Council serves as an institutionalised discussion forum for the dialogue between political decision-makers and the representatives of the senior citizens' organisations on issues specific to senior citizens that are of general significance in Austria.

Senior Citizens Council

As the umbrella organisation of senior citizens' organisations, the Austrian Senior Citizens Council is the official representative body of older people. The Senior Citizens Council has the same rights as the legal representative bodies of employees, business people and farmers in all matters, which affect older people in Austria. In this way, the representation of the interests of older people at the national level enjoys the same legal rights and status as that of other groups. Senior citizens' rights to co-determination are thus extended into the following areas:

The active design of a future senior citizens policy in Austria;

The Expert Commission on Pension Reform;

The autonomous administration of the social insurance institutions;

The Advisory Council of the Federation of Austrian Social Insurance Institutions Senior Citizens Plan.

According to Section 11, paragraph 2, line 2 of the Federal Senior Citizens Act, the tasks of the Federal Senior Citizens Advisory Council include making proposals for social, economic, health policy, housing policy and cultural measures in senior citizens policy as well as drawing up a long-term senior citizens plan.

Senior citizen friendly communities

In 2010, the competition 'Senior Citizen Friendly Community Austria' was organised for the fourth time together with the care services organisation Volkshilfe and the Pensioners' Association. Local communities play a central role in the wellbeing of elderly people, as they represent their immediate living environment. For elderly people, it is the communal and regional infrastructure, which has a decisive influence on how active, engaged, healthy and integrated their lives can be. The 'Senior Citizen Friendly Community 2010' award honoured the varied activities of local communities and increased public awareness of the needs of older people.

The pilot project GEMA - ULF

Active ageing in new social networks protects older people from isolation in the postretirement phase and thus contributes towards the promotion of health and social wellbeing. As part of the pilot scheme GEMA - Active Together, an independent volunteers' centre is being established that offers a professional infrastructure in placement, networking, training and further training of volunteers. Local authorities – who are faced by particularly great challenges in terms of demographic changes – are to be supported in the establishment of local hubs for voluntary engagement in cooperation across the generations.

Question 9:

Institutions:

Ombud for Equal Treatment (Gleichbehandlungsanwaltschaft)

The Ombud for equal treatment provides advice, support and information on equality issues in employment and occupation related to gender, ethnic origin, religion or belief, age and sexual orientation; in other areas of life with regard to a person's ethnic origin; and with regard to a person's gender in the following areas: public goods and services, education, social protection, social advantages and in the area of public goods and services.

The Human Rights Advisory Board

The Human Rights Advisory Board (HRAB) was established in 1999 in response to repeated recommendations by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The mandate of the HRAB is the monitoring and observation of all activities of the security services, the authorities under the Minister of the Interior and all bodies with power of direct command and compulsion. On the basis of its substantive and conceptual work with regard to the protection of human rights, it issues recommendations to the Minister of the Interior.

Ludwig Boltzmann Institute Human Rights

The Ludwig Boltzmann Institute of Human Rights (BIM) was established in 1992 as an independent research centre with the aim of contributing to the scientific

human rights discourse at the national, European and global level. The Institute is currently focusing on the following areas of research: Human Dignity and Public Security, Equality and Diversity, European Neighbourhood and Integration Policy, Development Cooperation and Business, Women's Rights, Children's Rights, Trafficking Human Rights, Education Information Society. The results of the research establish the basis for the work of the institute in the fields of counselling, implementation, monitoring, education and university teaching.

600 Third Avenue, 31st Floor, New York, N.Y. 10016
E-Mail: new-york-ov@bmeia.gv.at
Tel.: (+1) 917 54 28 400



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FEDERAL MINISTRY OF
LABOUR, SOCIAL AFFAIRS AND
CONSUMER PROTECTION



SOCIAL PROTECTION IN AUSTRIA 2010



IMPRINT

Owner, editor and publisher: Federal Ministry of Labour, Social Affairs and Consumer Protection Stubenring 1, 1010 Vienna • **Responsible for the content:** Department V/4 • **Layout:** SHW - Stephan Hiegetsberger Werbegrafik-Design GmbH, Vienna • **Print:** Paul Gerin GmbH & Co KG, Wolkersdorf • **Place of publishing and production:** Vienna, January 2011 • **ISBN :** 978-3-85010-259-9

• **Ordering information:** Contact the Ministry's order service: 0800-202074; order online: <http://broschuerenservice.bmask.gv.at> or by e-mail: broschuerenservice@bmask.gv.at

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Austria, compared to other EU-member countries, has a dense network of social welfare benefits, which contributes very effectively to poverty prevention. Without social benefits, the share of people at risk of poverty would be three times higher than it is at present.

Social benefits also mitigated the consequences of the financial crisis in Austria to a considerable extent. In 2009, a total of 100,000 jobs were created or saved by economic stimulus and labour market measures. With the introduction of a needs-based minimum benefit system, the federal government could safeguard minimum standards for the whole of Austria for the first time, and could achieve further progress in the fight against poverty by including all benefit recipients in the statutory health insurance scheme.

The present publication, 'Social protection in Austria', provides an overview of social welfare benefits. The basic characteristics and benefits of each of the different systems, such as family support, old age pensions, healthcare insurance, unemployment insurance, and emergency social services, are presented.

As Minister of Social Affairs, I would like to emphasize at the very beginning of this publication the enormous importance of the social welfare state for the cohesion of our society.

We all benefit from the social welfare state. It protects us against risks such as illness or unemployment.

The social welfare state creates chances for all to participate – including underprivileged groups or people with special needs – and strengthens the cohesion of society.

In addition, the social welfare state contributes to the attractiveness of a production location and supports prosperity and productivity. Unemployment benefits, family benefits and old age pensions also contribute significantly to the stability of consumption expenditure of private households and to the revenue base of public finance.

Rudolf Hundstorfer
Federal Minister of Labour, Social Affairs and Consumer Protection

Contents

Chapter 1: FEATURES OF SOCIAL POLICY IN AUSTRIA	5
1.1. 28% to 30% of GDP are used for social protection	6
1.2. Two thirds of social expenditure are cash benefits	6
1.3. Social insurance and universal benefits prevail among cash benefits	6
1.4. Task division between federal government, Laender and local authorities	7
1.5. Importance of labour law provisions	7
1.6. Participation of non-governmental actors	7
Chapter 2: STRUCTURE OF SOCIAL PROTECTION SCHEMES	9
2.1. Overview	10
2.2. Social insurance	10
2.3. Unemployment insurance, Public Employment Service	11
2.4. Schemes for the entire resident population (universal schemes)	12
2.5. Means-tested benefits	12
2.6. Social protection for civil servants	13
2.7. Victims' compensation	13
2.8. Protection under labour law	13
2.9. Occupational pension schemes	13
2.10. Social services	14
Chapter 3: SOCIAL EXPENDITURE, FINANCING SOCIAL BENEFITS, SOCIAL SECURITY CONTRIBUTIONS	15
3.1. Overview	16
3.2. Development of social expenditure and the social expenditure-to-GDP ratio	17
3.3. Outline of social expenditure according to functions	18
3.4. Cash benefits and services	18
3.5. Outline of cash benefits	19
3.6. Financing of social benefits	21
3.7. Social security contributions	21
Chapter 4: OLD-AGE PENSIONS	23
4.1. Overview	24
4.2. Mandatory pension insurance	25
4.2.1. Financing	25
4.2.2. Types of benefits from the pension insurance	25
4.2.3. Mandatory retirement age	26
4.2.4. Actual retirement age	27
4.2.5. Pension calculations	27
4.2.6. Pension amounts	29
4.2.7. Minimum income from pension insurance	29
4.2.8. Financial sustainability	29
4.3. Civil servants' pensions	30
4.4. Social indemnification systems	31
Chapter 5: SURVIVORS' PENSIONS	33
5.1. Overview	34
5.2. Mandatory pension insurance scheme	34
5.3. Survivors' income provision under other social protection systems	35
Chapter 6: INVALIDITY PENSIONS	37
6.1. Overview	38
6.2. Invalidity pensions under the mandatory pension insurance scheme	38
6.2.1. Eligibility	39
6.2.2. Calculation of invalidity pensions	40
6.2.3. Priority to rehabilitation	40
6.2.4. Statistical data on invalidity pensions under the mandatory pension scheme	40

6.3. Civil servants	41
6.4. Disability pensions	42
6.5. Social indemnification acts	43
Chapter 7: BENEFITS IN CASE OF UNEMPLOYMENT	45
7.1. Overview	46
7.2. Conditions of eligibility for unemployment benefits and unemployment assistance	46
7.3. Benefit levels	48
7.4. Cash benefits under the unemployment insurance for persons in employment	49
7.5. Social protection in case of employer's insolvency	50
Chapter 8: BENEFITS IN CASE OF UNEMPLOYMENT	51
8.1. Overview	52
8.2. Conditions for eligibility for health insurance benefits	52
8.3. Services from mandatory health insurance	52
8.4. Cash benefits in case of illness	54
Chapter 9: FAMILY BENEFITS	55
9.1. Overview	56
9.2. Benefits from the Family Burden Equalisation Fund	58
9.3. Family benefits under the health, pension and unemployment insurance schemes	62
9.4. Means-tested cash benefits for families in case of indigence	63
9.5. Tax credits for families	64
Chapter 10: BENEFITS IN CASE OF LONG-TERM CARE	67
10.1. Overview	68
10.2. Long-term care allowance	68
10.3. Benefits for relatives providing care to family members	70
10.4. 24 hours care	70
10.5. Social services in long-term care	71
Chapter 11: MINIMUM INCOME PROVISION	73
11.1. Overview	74
11.2. The equalisation supplement under mandatory pension insurance	74
11.3. Unemployment benefit and emergency unemployment assistance under unemployment insurance	75
11.4. Needs-based minimum benefit system (social assistance until 2010)	75
11.5. Supplementary pensions under the social indemnification schemes	78
11.6. Wage policies under collective agreements	78
Chapter 12: PROVISIONS UNDER LABOUR LAW	79
12.1. Collective Agreements	80
12.2. Work councils and works agreements	80
12.3. Working hours	80
12.4. Vacation entitlements	82
12.5. Family-related provisions under labour law	82
12.6. Educational leave	83
12.7. Unemployment-related provisions under labour law	83
12.8. Entitlements upon termination of employment	84
12.9. Entitlements under labour law in case of sickness	85
12.10. Labour-law provisions concerning people with disabilities	86
12.11. Equal treatment	87
12.12. Mandatory provisions on the equalization of persons with disabilities (under labour law and in other fields)	88

CHAPTER 1

FEATURES OF SOCIAL POLICY IN AUSTRIA

1.1.	28% to 30% of GDP are used for social protection	6
1.2.	Two thirds of social expenditure are cash benefits.....	6
1.3.	Social insurance and universal benefits prevail among cash benefits	6
1.4.	Task division between federal government, Laender and local authorities	7
1.5.	Importance of labour law provisions	7
1.6.	Participation of non-governmental actors	7

Social policy contributes significantly to the prevention and alleviation of poverty. Social policy creates the preconditions for social cohesion and

enables us to master social, demographic and economic change.

1.1. 28% to 30% of GDP are used for social protection

Social policy plays a crucial role as an instrument to improve life opportunities, decrease risks and manage crisis situations. From 1995 to 2008¹ the social expenditure/GDP ratio fluctuated between 28% and 29.6%. It reached its present peak threshold of approximately 30.7%² (2008: 28.3%) due to the financial crisis in 2009³. The social expenditure/GDP ratio is above the average in the EU-27. Given the fact that in Austria, the costs related to the crisis are lower than in most other European countries (lower increase in unemployment), the social expenditure/GDP ratio will approach the European average during the next years.

In 2009, public social benefits (cash and non-cash benefits) per person living in Austria were at approximately EUR 10,100.

Social benefits are a powerful instrument to avoid poverty. According to SILC⁴, 43% of the population would receive a household income below the at-risk-of-poverty threshold, if there were no social benefits and households would rely solely on incomes from gainful employment and other private income. In 2008, pensions reduced the at-risk-of-poverty ratio to 24%, and additional other social benefits further decreased this ratio to 12%. (See Chapter 3).

1.2. Two thirds of social expenditure are cash benefits

Cash benefits prevail over services. This is especially relevant for the case of family benefits and the social benefits for elderly persons and who are in need of long-term care. However, in the past decade, spending on non-cash benefits (especially

on child-care facilities, and for in-patient and out-patient facilities for persons who are ill, disabled or in need of care) has risen disproportionately due to increased demand. (See Chapters 2 and 3).

1.3. Cash benefits: social-insurance and universal benefits prevail

Eligibility for and extent of cash benefits in case of unemployment, old age and invalidity are predominantly linked to the former employment and income status of the persons concerned. In 2008, the share of social-insurance based benefits in total benefits was at 55%. Universal benefit entitlements, which are benefits independent of current or former employment or income status, exist i.e. in case of long-term care provision and

family benefits. In the past 20 years, the share of universal benefits in total social cash benefits increased from 10% to 14%. Furthermore, the population is almost entirely covered by health insurance. (See Chapter 8)

In 2008, means-tested cash benefits accounted for 4% of all cash benefits (eligibility depends in such cases on available income and partly also

1. DATA SOURCE: ESSOSS 2008. ESSOSS – European system of integrated social protection statistics – comprises statistics of financial flows in the field of social protection revenue and expenditure

2. September 2009

3. Preliminary data ESSOSS 2009

4. SILC: a survey which collects information on living conditions of private households in the European Union annually. Community Statistics on Income and Living Conditions are of particular interest and comprise aspects such as housing situation, housing expenses, household furniture, employment situation and income of household members, education, health, and satisfaction. Based on this data, conclusions can be drawn on living conditions of various population groups, on poverty and social exclusion. These conclusions constitute an important basis for social policy in Austria and the EU.

property). The reason for this rather low share of this type of benefits is the relatively dense net of social-insurance based and universal benefits, as well as the internationally comparatively low unemployment rate. (See Chapter 11)

The remaining 30% of cash benefits are mainly attributed to civil servants' pensions (18%), cash benefits due to entitlements under existing labour law and occupational pension schemes. (See Chapter 4 and 12)

1.4. Task division between federal government, Laender and local authorities

In general terms, the Austrian system of social security is characterised by a mixture of centralised and decentralised elements, with (social-insurance based and universal) benefits for which responsibility lies at the federal level prevailing. Regional

responsibilities (Laender, local authorities and cities) mainly include parts of the health care system, housing, most of the social services, child-care facilities and the needs-based minimum benefit system (social assistance until 2010).

1.5. Importance of labour law provisions

The Austrian welfare state demands social responsibility from employers. Labour law supports the mandatory entitlements of employees for balancing work and family life as well as measures against a number of social risks. At the same time, employers are well-integrated in the decision-making processes and in the implementation of policy measures (social partnership). Collective

agreements in individual industries govern pay and working conditions for all employees in the respective industries in a binding way. Legislation seeks to balance the protective needs on part of employees and the demands for more flexibility on the part of the employers.

The standard of occupational health and safety is high. (See Chapter 12)

1.6. Participation of non-governmental actors

In this context, the following social partnership organisations are key actors when it comes to opinion and policy shaping: the Federal Chamber of Labour, the Federal Economic Chamber and the Chamber of Agriculture are mandatory interest groups (with compulsory membership); the Austrian Trade Union Federation and the Federation of Austrian Industrialists are interest groups in which membership is voluntary.

Employment Service and other institutions are in their entirety composed of representatives of the social partner organisations, in some cases the majority of board members come from a social partner background.

Apart from the social partners, third-party-experts have been increasingly involved in decision-making and implementation processes in the framework of reform commissions and other bodies. Organisations representing the interests of e.g. senior citizens or persons with disabilities have also gained more influence in the past years.

The social partners are being consulted before social legislation measures are taken, especially at the federal level. The social partners strive for consensual solutions, thus often preparing the ground for legislation. Many of the governing bodies of the social insurance funds, the Public

Last but not least, important impulses for the development of the Austrian social security system come from the institutions of the European Union.

CHAPTER 2

STRUCTURE OF SOCIAL PROTECTION SCHEMES

2.1.	Overview	10
2.2.	Social insurance	10
2.3.	Unemployment insurance, Public Employment Service	11
2.4.	Schemes for the entire resident population (universal schemes)	12
2.5.	Means-tested benefits	12
2.6.	Social protection for civil servants	13
2.7.	Victims' compensation	13
2.8.	Protection under labour law	13
2.9.	Occupational pension schemes	13
2.10.	Social services	14

2.1. Overview

Social protection schemes in Austria can be broken down as follows:

Social insurance: Primarily refers to pension, health and accident insurance

Unemployment insurance: This mainly covers unemployment benefit, emergency unemployment assistance and active labour market policy measures

Universal schemes: Family allowances and tax credits for children, child care allowances, long-term care allowances (as well as services within the health care system due to their de facto effects)

Means-tested benefits: Primarily refer to minimum income under the pension insurance scheme (equalisation supplements), emergency

unemployment assistance under unemployment insurance, needs-based minimum benefit system (social assistance until 2010) and grants to pupils and students

Social protection for civil servants (covers tenured civil servants subject to separate pension legislation)

Victims' compensation: This refers mainly to victims of war and military services as well as crime victims

Protection under labour law: This includes continued payment of wages in case of sickness

Occupational pension schemes

Social services

2.2. Social insurance

Social insurance in Austria is based on the principle of mandatory insurance, solidarity and autonomy. It is primarily financed by employers' and employees' contributions under the pay-as-you-go system.

Social insurance in the strict sense of the word is broken down into three schemes:

- pension insurance
- health insurance
- accident insurance.

A total of 22 social insurance institutions provide health, pension and accident insurance. They are organised in the Federation of Austrian Social Insurance (their umbrella organisation). Important tasks of the federation include:

- long-term planning
- drawing up guidelines (for uniform practical implementation)
- central data management
- entry into contracts with physicians, dentists, etc.
- publication of a list of Pharmaceuticals
- comparison of key data of the various social insurance institutions

- representation of the social insurance institutions in the public arena
- acting as a liaison office at the international level.

The social insurance institutions are organised according to areas of responsibility, occupational groups and /or regions. The most important institutions are the pension insurance fund for employees, the nine regional health insurance funds in the Laender, the general accident insurance fund, the social insurance funds for self-employed persons (trade and commerce, as well as farming) and the insurance fund for public service employees.

The individual social insurance institutions are managed by autonomous bodies composed mainly of representatives of the social partners. These bodies are granted a certain scope of independent action within the framework of legal requirements. Since most entitlements are governed by law, autonomy is, in practise, largely restricted to the management of the institutions' own facilities.

With the exception of some minor groups, almost all persons working gainfully are covered by the social insurance institutions. Furthermore, health and medical care institutions as well as

Organisational schema of the Austrian social insurance institutions

Federation of Austrian Social Insurance Institutions			
Accident insurance	Health insurance		Pension insurance
General accident insurance fund	9 regional health insurance funds	6 company health insurance funds	Pension insurance fund for employees
	Social insurance fund for trade and commerce		
Social insurance fund for farmers			
Insurance institution of the Austrian Railways and mining			
Insurance fund for public service employees			Insurance institution of Austrian Notaries Public

(Source: Federation of Austrian Social Insurance Institutions: Austrian Social Insurance in Figures; August 2009)

emergency units for public service employees exist at Laender and community-level. These institutions are not part of the Insurance fund for public service employees or members of the Austrian social insurance funds. In the past few years, a considerable number of atypical forms of employment (marginal part-timers, freelancers on service contracts, new self-employed) have

been included into the social insurance system on both the contribution and the benefit sides under the principle of either mandatory or voluntary insurance.

As health insurance also covers family members of the insured persons, the social insurance system maintains largely a comprehensive health care system for the entire population. (See Chapter 8)

2.3. Unemployment insurance, Public Employment Service

Unemployment insurance is not organised under the umbrella of the Federation of Austrian Social Insurance Institutions. It is managed by the Public Employment Service (AMS), which is also responsible for measures of active labour market policy.

The Austrian Public Employment Service has a federal headquarter, nine organisations at the level of the Laender and 99 regional organisational units. On all levels of the aforementioned organisations and units, representatives of the social partner institutions, such as the Federal Economic Chamber, the Federal Chamber of Labour, the Austrian Trade Union Federation and the Federation of Austrian Industrialists are involved in the management and all organisational aspects which shape labour market policy (working programmes of the Laender). Furthermore, they have their say in Controlling. At the federal level, the administrative board includes

representatives of the government along with representatives of employer and employee organisations.

The specific composition of these boards should guarantee that the groups in society, which are most important for the labour market have a say in shaping Austrian labour market policies.

The implementation of objectives is the task of the executive bodies: the executive board at the federal level, the executive of the respective Land at the level of the Laender, and the managers of the regional unit at the regional level. The corresponding executive and management levels enjoy the support of their organisational units when it comes to the implementation of the labour market policy.

Unemployment insurance is primarily funded from wage-related contributions by employers and employees. (See Chapter 7)

2.4. Schemes for the entire resident population (universal schemes)

The following three benefits are the most important cash benefits, i.e. eligibility does not depend on employment and income status:

- family allowance and tax credit for children
- child care allowance
- long-term care allowance.

Health insurance also covers co-insured persons (family members) and persons who receive needs-based minimum benefit system benefits. Consequently it constitutes part of the universal scheme.

Family allowance and tax credit for children

The family allowance is a universal cash benefit for children, independent from income levels. The amount depends on the number of children in a family and their ages. It is funded by the Family Burdens Equalisation Fund (FLAF) and paid by the Tax Offices. Allocations to the FLAF come mainly from wage-related contributions and partly from general tax revenues.

Family allowances are supplemented by a uniform tax credit for children, which may be paid out as a 'negative tax'. Eligibility for the tax credit for every child is independent from the parents' income levels. (See Chapter 9)

Child care allowance

All mothers and fathers are eligible for child care allowance, according to options ranging from 12 (14 for the second parent) to 30 (36) months of the life of the child. The allowance is paid out by the

health insurance funds and financed from the Family Burdens Equalisation Fund. (See Chapter 9)

Long-term care allowance

All persons requiring long-term care are eligible for long-term care allowance, either from the federal government or from the Laender. The amount is exclusively dependent on the degree of care required. The scheme is primarily managed by the institutions paying out pensions. Persons, who are not entitled to a pension, will receive the long-term care allowance from the Land they live in. The allowance is financed from taxes. (See Chapter 10)

Health insurance

Health insurance covers all persons working gainfully, the members of their families and most recipients of social benefits. Currently, 99% of the population are health insured. For the recipients of the needs-based minimum benefit system, health insurance is mandatory, if they are not yet covered by another health insurance. Health insurance is mainly financed from wage-related contributions of employers and employees.

Apart from health insurance funds, important players in this field include public authorities (the federal government, Laender, local authorities) in their role of financing or co-financing in-patient care. Expenditure on hospitals comes from health insurance contributions and the general tax revenues. (See Chapter 8)

2.5. Means-tested benefits

Pension insurance provides for means-tested minimum benefits. Pensions are topped up with an equalisation supplement so as to reach a threshold value (the equalisation supplement reference rate).

Under the system of unemployment insurance, long-term unemployed persons are entitled to an emergency unemployment assistance (Notstandshilfe) in case they are financially destitute (however without the minimum income reaching a threshold value).

Housing benefits and student grants should also be mentioned here. Some benefits to families contain elements characteristic of a needs-based minimum benefit system.

The needs-based minimum benefit system (social assistance until 2010) is a subsidiary net constituting the last resort in social security. Legislation governing social assistance is different in each of the nine Laender. With the needs-based minimum benefit system, all eligible persons now find the same minimum standards guaranteed. The Laender have the option to grant further benefits,

which top up this minimum standard. Means-tested benefits, with the exception of the emergency

unemployment assistance, are financed from general tax revenues. (See Chapter 11)

2.6. Social protection for civil servants

The number of those employed in the public sector (contract employees), who are subject to the same social insurance legislation as private sector employees has been steadily on the increase. However, the rules applying to the public sector employees with tenure (civil servants) are different in various areas of social protection, depending on the employer (federal government, Laender, local authorities, Austrian federal railways, etc.) These civil servants with tenure all have in common that they are not insured under unemployment or pension schemes but receive entitlements directly from their employers.

Based on the 2004 pension reform, civil servants under the age of 50 (2005) will increasingly become

subject to rules that govern the mandatory pension insurance. Regarding persons who became civil servants from 1.1.2005 onwards, pension entitlements are subject to the pension law pertaining to employees insured under the General Social Insurance Act.

Most civil servants are insured under the social insurance scheme (the health insurance fund for public service employees); some groups are covered by special schemes.

Pensions and health care for civil servants are financed from their contributions; however, the majority comes from the budget of the public authorities. (See Chapter 4)

2.7. Victims' compensation

Certain high-risk situations for which the state takes over particular responsibility are subject to special social protection schemes. These provide for benefits (primarily pensions) to victims of war or military service, victims of Fascism, crime victims and persons suffering from vaccination-induced

disabilities. The schemes are managed by the Ministry of Labour, Social Affairs and Consumer Protection as well as by the Federal Social Office (a subordinate agency of the Ministry) at the regional level. Victims' compensation is exclusively funded from the federal budget. (See Chapters 4 and 6)

2.8. Protection under labour law

Entitlements vis-à-vis employers constitute an important element of Austrian social policies. These include financial coverage in case of sickness and pregnancy, employee income provision funds, specific provisions for working parents (e.g. paid care leave), dismissal protection for individual groups, periods of notice, working hours and rest periods etc.

Collective agreements are safeguarded under law and guarantee minimum pay at sector level. In a principle agreement, the social partners decided to increase minimum wages to at least EUR 1,000, given they had previously been below this threshold (14 times per year). This objective was fully met or even exceeded on 1 January 2009. (See Chapters 11 and 12)

2.9. Occupational pension schemes

Compared to other countries, the 'second pension pillar' (supplementary occupational schemes) in Austria covers a relatively small group of emplo-

ees. In 2007, about 135,000 employees received a company pension (this equals 13% of all hitherto gainfully employed retirees).

2007 around 865,000 employed persons can expect additional benefits under the occupational pension scheme (around 32% of all gainfully employed). (Source: Austrian Institute of Economic Research – WIFO 2009)

Due to various implementation options (such as direct granting of benefits from the company, pension funds, group life insurances) it is far from certain that all potential benefit recipients will indeed receive a company pension in the future.

The mandatory employee income provision fund has been in place for some years now, applying to new entrants to the labour market and persons gainfully employed before 1 January 2003 and who opted to transfer from the old severance pay scheme to the new system. The entitlements under labour law thus acquired may be drawn as severance pay or as a pension-like benefit.

2.10. Social services

In 2008 EUR 6.5 billion, which is equivalent to 7% of social protection expenditure or approximately 2% of GDP, were spent on social services (not including health care). Around EUR 17 billion, which is 22% of social protection expenditure or 6% of GDP, were spent on health care services in kind.

The most important areas for social services are measures under labour market policy, child care outside of schools, homes for the elderly and nursing homes, day-care centres and community services, housing and/or occupational institutions for impaired persons as well counselling and care for persons with special problem situations (e.g. women and children exposed to domestic violence, drug-dependent or drug-addicted persons, homeless persons or persons at risk of losing their homes, persons in debt, persons released from prisons or asylum seekers).

According to ESSOSS 2008 EUR 1.1 billion were spent on services related to unemployment, EUR 1.5 billion went to child- and family-related services, EUR 1.3 billion was allocated to institutional and semi-institutional services and to community services for elderly persons or persons requiring care, another EUR 1.3 billion was spent on institutions and facilities for persons

with disabilities, and EUR 0.8 billion went to other social services.

With the exception of labour market-related measures, responsibility for social services lies mainly with the Laender, local authorities and cities.

Social services differ from most cash benefits and health care services, due to the fact that there is largely no individual legal entitlement to them.

Regional differences exist in terms of quality and quantity of services available, as well as in terms of organisational structure. This is due to the fact that Austria has one Land (Vienna) that is urban in structure, while the other eight Laender are only partly characterised by urban structures.

The local authorities run social services on their own or outsource them to non-profit organisations, associations or private providers to a certain degree. Generally, the public sector has a dominant role in the areas of child care, homes for the elderly and nursing homes. Other providers are private institutions and non-profit organisations, including major organisations with a long-standing tradition (associations affiliated with churches or political parties, other supra-regional welfare organisations), as well as numerous small institutions.

CHAPTER 3

SOCIAL EXPENDITURE, FINANCING SOCIAL BENEFITS, SOCIAL SECURITY CONTRIBUTIONS

3.1.	Overview	16
3.2.	Development of social expenditure and the social expenditure-to-GDP ratio	17
3.3.	Outline of social expenditure according to functions	18
3.4.	Cash benefits and services	18
3.5.	Outline of cash benefits	19
3.6.	Financing of social benefits	21
3.7.	Social security contributions	21

3.1. Overview⁵

In 2008, 28% of the annual GDP was spent on social benefits and health care services⁶ (out of which about 26% was spent on health care services and approx. 74% on social benefits).

68% of social expenditure is in form of cash benefits.

Benefits under social insurance prevail in Austria. More than half of social expenditure is covered from this source. However, their share has declined while the share of universal benefits has gone up in the past decade (especially due to the

introduction of new benefits, like long-term care allowances, tax credits for children and child care allowances).

Taking the social welfare system as a whole, more than one third is financed from the federal budget; another third comes from contributions by private sector employers, 5% from public sector employers and 27% are funded by the contributions of the insured persons. The share of contributions from insured persons has increased slightly over the past decade whereas the shares from employers and public authorities have decreased.

Development of social expenditure^{*)} and social expenditure-to-GDP rate^{*)} 1990 to 2009

Year	Social expenditure in bill. EUR	GDP in bill. EUR	Social expenditure-to-GDP ratio in % of GDP
1990	35.5	136.2	26.1
1995	50.4	174.6	28.9
2000	59.0	207.5	28.4
2001	61.3	212.5	28.8
2002	63.9	218.9	29.2
2003	66.2	223.3	29.6
2004	68.3	232.8	29.3
2005	70.5	243.6	28.9
2006	73.1	256.2	28.5
2007	75.8	270.8	28.0
2008	79.8	281.9	28.3
2009 ¹	84.1	277.1	30.7 ²

*) Due to alterations with regard to calculation of social expenditures and GDP, figures may slightly differ from those published in the past

1) Preliminary figures as of June 2010

2) Preliminary figures: regarding the extrapolation of the already confirmed figures on social expenditure on social expenditure's total for 2009, it is assumed that pending data of expenditure for social schemes shall correlate on average to confirmed expenditure figures in the past.

Source: for social expenditure: Statistik Austria, BMASK: ESSOSS database on social expenditure; for GDP: Statistik Austria as of July 2009

5. Only preliminary data for 2009 were available at the time this publication went to press. The following figures show total aggregates for 2009 and individual aggregates for 2008.

6. The description of social expenditure is oriented along the lines of the methodology adopted under ESSOSS, the European System of Integrated Social Security Statistics agreed upon between EUROSTAT and the EU Member States. According to the ESSOSS definition, social expenditure only includes spending for the purpose of redistribution (i.e. no private spending, no saving funds or life assurance plans, no private supplementary payments, no social benefits by companies which are not geared to redistribution). Moreover, other public expenditure (e.g. tax redistribution which is not primarily socially induced, public education, housing grants etc.) is also excluded.

3.2. Development of social expenditure and the social expenditure-to-GDP ratio

During the first half of the 1990s the social expenditure-to-GDP ratio rose significantly (from 26.1% to 28.9% between 1990 and 1995) due to the widening of the scope of social benefits. From 1995 to 2000 the social expenditure-to-GDP declined again, going down to 28.4%. The decline is primarily due to an over-proportionate GDP increase and consolidation measures in the field of social welfare. However, in spite of these consolidation measures, starting from 2000, there were major improvements, i.e. regarding family-related benefits and social services, up until 2003. In conjunction with declining GDP growth and additional spending brought about by labour-market developments, this led to an increase in the social expenditure-to-GDP ratio to 29.6%. By 2005, the social expenditure-to-GDP ratio had

dropped to 28.9%, not so much due to consolidation measures, but because of stronger GDP growth. With the economy growing significantly from 2004 to 2007, the expenditure-to-GDP ratio declined from 29.3% in 2003 to 28% in 2007. 2008 saw a parallel development of social expenditure and GDP, with the expenditure-to-GDP ratio at 28.3%. The counter-cyclical decline of the expenditure-to-GDP ratio offers more room for manoeuvring through the current crisis. Hence, albeit the expected increased crisis-related expenditures for 2009 and 2010, the expenditure-to-GDP ratio will only briefly rise above the long-term average value; according to preliminary calculations, 2009 saw the expenditure-to-GDP ratio increase to 30.7 % (September 2009) due to the decline of the GDP. (see chart page 16)

Social benefits according to functions*

In billion EUR	1993	2003	2008	Rise in %, 1993-2008
Sickness/health care	11.2	16.1	20.2	80.4%
Invalidity/disability	4.1	5.8	6.0	46.3%
Old age	16.0	25.8	32.6	103.8%
Survivors	4.2	5.0	5.5	31.0%
Family/children	4.9	7.0	8.0	63.3%
Unemployment	2.5	3.8	3.9	56.0%
Others ¹	0.8	0.8	1.2	50.0%
Total²	43.7	64.3	77.4	77.1%

Shares in %	1993	2003	2008	
Sickness/health care	25.6	25.0	26.1	
Invalidity/disability	9.4	9.0	7.8	
Old age	36.6	40.1	42.1	
Survivors	9.6	7.8	7.1	
Family/children	11.2	10.9	1.3	
Unemployment	5.7	5.9	5.0	
Others ¹	1.8	1.2	1.6	
Total	100.0	100.0	100.0	

* At the time this publication went to press, no subdivisions of 2009 social expenditure according to functions were available.

1) i.a. part of expenditure on social assistance, housing benefits, student grants

2) i.a. not including administration expenses

Source: Statistik Austria, BMASK, ESSOSS database on social expenditure

3.3. Outline of social expenditure according to functions

Almost half of social expenditure (49%) goes to pensions, care allowance and social care facilities for the elderly, one quarter (26%) is spent on health care, 10% is allocated to family benefits, 8% goes to the support of invalid/disabled persons and 5% to benefits for the unemployed and labour market measures.

From 1993 to 2008, social expenditure in the field of support for the elderly showed the highest increase, spending on survivors' benefits rose least. (see chart page 17)

3.4. Cash benefits and services

2008 a total of 68% of social expenditure (not including administration costs) is used for cash benefits.

Almost two thirds of the cash benefits (68%) are old-age benefits (pensions, long-term care allowance etc.), 12% are family transfer benefits, 6% are invalidity pensions for persons below the ages of 60/65, 5% unemployment benefits and 6% sickness-related benefits (continued payment of wages in case of sickness, sickness benefit).

Three quarters of services are provided in the health care sector (in-patient and out-patient care). The shares of services vary from area to area, they can be as high as 83% in health care and as low as 3% in the field of old-age and survivors' benefits. The shares of services provided in the areas of families, invalidity and unemployment account for roughly one fifth to one quarter of related total spending.

In the context of social benefits for the elderly, public spending on services, i.e. on institutional and community services, are relatively low in comparison with cash benefits. All in all, the total sum of long-term care allowances (EUR 1.6 billion) for elderly people (above 59/64) is higher than public spending on institutional and community services (EUR 1.2 billion). One principle of old-age policies in Austria is that transfer payments give older persons in need of help an option of deciding on the type of care they consider best for themselves. Nevertheless, spending on institutional and community services for the elderly has risen disproportionately since 1990.

More than 25% of benefits for the unemployed are services (labour market support measures), which do not include the cash benefits forming part of activation measures (e.g. part-time benefits for older workers, assistance in covering the costs of subsistence, cash benefits under the umbrella of foundations). The share of activation measures in the sum total of benefits for the unemployed has risen sharply in the past few years.

The share of family benefits in GDP is high by EU comparison, which is due to the related cash benefits (family allowance, tax credit for children, maternity benefit, and child care allowance). The amount from the public budget available for external child care in 2008 corresponds to about 20% of the sum total of family allowances and tax credits for children.

Share of benefits in kind in total of the field of social spending, 2008*

	Share of benefits in kind in total benefits
Health care	83%
Unemployment	28%
Invalidity	22%
Family	19%
Old age and survivors	3%

* At the time this publication went to press, no sufficient data were available for 2009.

Source: Statistik Austria, BMASK, ESSOSS database on social expenditure

Shares of benefits in cash and kind, 2008*

	Amount in billion EUR	Share in total social expenditure
Benefits in cash		
Old age	31.2	40%
Survivors	5.5	7%
Invalidity	4.7	6%
Children and families	6.5	0,08
Unemployment	2.8	4%
Health care	3.0	4%
Other spending	0.4	1%
Sum total of benefits in cash	54.1	70%
Benefits in kind		
Old age	1.3	2%
Survivors	-	-
Invalidity	1.3	2%
Children and families	1.5	2%
Unemployment	1.1	0,01
Health care	17.2	22%
Other spending	0.8	1%
Sum total of benefits in kind	23.2	30%
Sum total of benefits in cash and kind¹	77.3	100%

* At the time this publication went to press, no sufficient data was available for 2009

1) The expenditure listed here is lower than total social spending. Certain benefits are not broken down according to function.

Source: Statistik Austria, BMASK: ESSOSS database on social expenditure

3.5. Breakdown of cash benefits

Among the cash benefits, benefits under social insurance schemes prevail. Their share in total benefits is 55%. At 18%, civil servants' pensions rank second. Universal benefits account for 14%, entitlements of employees under labour law (continued payment of wages in case of sickness) constitute 4%, the share of means-tested benefits is 4% and company pensions have a share of 3%⁷. In comparison to 1990, the share of universal benefits has risen from 10% to 14% in 2008 (due to the introduction of the long-term care benefit, the tax credit for children and the child care allowance).

7. The remaining 2% relate to other benefits

At the same time, the share of benefits under the social insurance scheme dropped by 4 percentage points. The shares of entitlements under labour law and civil servants' pensions declined by 1 percentage point each. The share of means-tested benefits stayed the same.

Cash benefits and in kind benefits, 2008

2008, social expenditure in Austria could be broken down into EUR 54.1 billion for cash benefits and EUR 23.2 billion for services. 68% of social expenditure were cash benefits.

Cash benefits serve as income replacement during periods of unemployment or employment incapability (old-age, invalidity, unemployment etc.) or as a means to cover additional financial expenses (children, persons in need of care). Services primarily have the objective to offer a range of services in the field of care (such as in situations of sickness, need of long-term care, disability, external child care). (see chart page 19)

In some cases, the selection of either cash benefits or services depends on the respective living situation of the future beneficiary and situation's proper evaluation. E.g. expenditure for child care or long-term care should be covered by direct payments to the persons concerned or by increasing funding for institutions providing care. In most cases, both types of benefits are combined. Compared to other EU Member States, cash benefits are the more common method in Austria.

Cash benefits according to benefit types, 2008*

in billion EUR	
Benefits under social insurance schemes	29.7
Pensions from statutory pension insurance ¹	26.4
Cash benefits under health insurance ²	0.8
Cash benefits under accident insurance ³	0.6
Cash benefits from unemployment insurance ⁴	1.9
Universal benefits	7.8
FBEF benefits ⁵	4.5
Tax credit for children	1.2
Long-term care allowance ⁶	2.1
Means-tested benefits	2.3
Pension insurance (equalisation supplements)	1.0
Unemployment insurance (unemployment assistance)	0.6
FBEF (supplement to child care allowance)	0.1
Laender and local authorities ⁷	0.4
Student grants ⁸	0.2
Civil servants' pensions	9.9
Social compensation⁹	0.2
Labour law entitlements¹⁰	2.4
Voluntary social benefits from companies¹¹	1.6
Other cash benefits¹²	0.4
TOTAL	54.3

* At the time this publication went to press, no sufficient data was available for 2009.

1) All pensions under statutory pension insurance, exclusive of equalisation supplements

2) Sickness pay, maternity allowance

3) Disability pensions and survivors' pensions under accident insurance

4) All cash benefits, exclusive of unemployment assistance

5) Family allowance, child care allowance, advances on maintenance payments

6) Benefits from the federal government and from the Laender

7) Primarily cash benefits under social assistance

8) Student's and pupil's grants

9) Primarily cash benefits for victims of war, military service, victim compensation

10) Continued payment of wages in case of sickness

11) Company pensions

12) Primarily benefits from the bankruptcy contingency fund, benefits from the Laender (not means-tested), cash benefits from various aid funds

Source: Statistik Austria, BMASK: ESSOSS database on social expenditure

3.6. Financing of social benefits

An overall view of the social welfare schemes of 2008 shows that 34% of finance came from the budgets of the regional authorities, 33% from private employers' contributions, 27% from contributions of insured parties and 5% from contributions by employers in the public sector. Since 1990, the shares of employers' contributions and the contributions of the state in total financing dropped by one percent each, whereas insured

parties' contributions increased by two percent.

The following section illustrates the major social welfare schemes according to their financial structure.

The largest part of social benefits funded exclusively from the budget are health care measures going beyond health insurance benefits (especially in in-patient treatment), the social services of the Laender

Sources of financing, 2008

Sources of financing	Shares in %
Funds from the budget of regional authorities	33.2
Employers' contributions	32.9
Employees' contributions	22.1
Employers' contributions of the government ¹	5.0
Contributions by self-employed persons	2.8
Contributions by pensioners	2.3
Other revenue	1.5

1) Including "imputed" employers' contributions by the government: it is imputed that the state pays the same contributions to pensions provisions for civil servants as private employers pay for their employees.

Source: Statistik Austria, BMASK: ESSOSS database on social expenditure

and local authorities, long-term care allowance, the tax credit for children and means-tested benefits (not including emergency unemployment assistance for the long-term unemployed).

More than two thirds of social insurance benefits (with the exception of accident insurance), such as health care and pension insurance, are funded from contributions by employers and insured parties which are about the same in amount. Unemployment insurance is covered equally (50:50) by employers and employees. Regarding health care insurance, the share of insured parties is significantly higher than the share of employers (46% are contributions from insured parties, 27% are contributions from employers).

The benefits under labour law are exclusively or primarily financed by employers (especially the continued payment of 100% of wages in case of sickness for a certain period). Employers also pay for 99% of the remunerations received after business insolvency, for 96% of company pensions, for 93% of benefits in case of occupational accidents and for 87% of family related benefits.

Transfers between benefit schemes play a significant role in financing pension and health insurance. This includes i.e. contributions to health and pension insurance for persons receiving benefits from unemployment insurance. Costs of family-policy related measures are reimbursed to the institutions in charge from the Family Burden Equalisation Fund.

3.7. Social security contributions

In 2010, 37.85% of the mandatory wage contribution are transferred to social insurance: 22.8% go to pension insurance, 7.65% to health insurance,

1.4 % to accident insurance. In addition to these social insurance contributions, 6% have to be paid to the unemployment insurance.

These contributions are subject to a certain income threshold. The ceiling on insurable earnings in the year 2010 is EUR 4,110 per month (14 times a year) for wage and salary earners. This corresponds to roughly two times the mean income of wage and salary earners (median).

Contributions to be paid by employers exclusively are those securing continued pay in case of insolvencies (0.55%) and contributions to the Family Burden Equalisation Fund (4.5% of the payroll total). An employers' contribution of 1.53% of the payroll total has to be paid to employee income provision.

Additional employers' contributions are due for certain groups of workers: 2% for persons performing manual labour in night shifts and 0.7%, paid by em-

ployer and employee respectively for the bad weather compensation payable to construction workers.

Further salary and wage related contributions are also due for housing promotion (covered by employers and employees with a contribution of 0.5% each), the mandatory representation of interests of employees, covered by employees (0.5%), and the local tax, covered by employers (3%).

In total all income related contributions account for 48% to 53% of pay (employers' share: 29% to 34%, employees' share: 19%).

There are separate, contributory rates for self-employed persons and civil servants. Pensioners under the pension insurance scheme have to pay a health insurance contribution of 5.1%.

Contributory rates for wage and salary earners 2010 (% of contributory pay)

	Employers and Employees	Employers	Employees
Pension insurance	22.80	12.55	10.25
Health insurance: blue and white collar	7.65	3.70/3.83	3.95/3.82
Accident insurance	1.40	1.40	0.00
Unemployment insurance	6.00	3.00	3.00
Bad weather compensation ¹	1.40	0.70	0.70
Manual labour on night shifts ¹	2.00	2.00	0.00
Employee income provision ("New severance pay") ¹	1.53	1.53	0.00
Secure pay in case of insolvency	0.55	0.55	0.00
Family Burden Equalisation Fund	4.50	4.50	0.00
Housing promotion	1.00	0.50	0.50
Statutory representation of employees	0.50	0.00	0.50
Local tax	3.00	3.00	0.00
Total	between 47.70% 52.63%	between 29.20% 33.56%	between 18.77% 18.90%

1) For certain groups of workers only

Source: Federation of Austrian Social Insurance Institutions, Austrian Chamber of Labour, BMASK

CHAPTER 4

OLD-AGE PENSIONS

4.1.	Overview	24
4.2.	Mandatory pension insurance	25
4.2.1.	Financing	25
4.2.2.	Types of benefits from the pension insurance	25
4.2.3.	Mandatory retirement age	26
4.2.4.	Actual retirement age	27
4.2.5.	Pension calculations	27
4.2.6.	Pension amounts	29
4.2.7.	Minimum income from pension insurance	29
4.2.8.	Financial sustainability	29
4.3.	Civil servants' pensions	30
4.4.	Social indemnification systems	31

4.1. Overview

The most extensive system for the provision of retirement income is the mandatory pension scheme, which includes all persons who were gainfully employed, with the exception of civil servants. The mandatory pension insurance scheme covers old-age pensions, invalidity and survivors' pensions.

The second largest system is the pension insurance scheme for civil servants (tenured staff in the public service), with different regulations depending on the civil servants' employers (i.e. the federal government, Laender or local authorities).

In addition, schemes similar to pension systems exist for victims of war, military service etc. (governed by special laws on cash-income support) and for the victims of occupational accidents with permanent disabilities (disability pensions). The benefits from these schemes are referred to as pension-like and are usually paid as a supplement to pensions under the mandatory or civil-servants' schemes.

Within the framework of mandatory employee income provision funds, amounts saved by employers on behalf of employees can be drawn i.e. as supplementary pension benefits upon reaching retirement age.

Moreover, employees in some sectors and enterprises are entitled to company pensions in addition to pensions under the mandatory scheme.

Indigent persons with no or insufficient entitlements to benefits under the schemes described above fall within the responsibility of social assistance and, from autumn 2010 onwards, within the responsibility of the needs-based minimum benefit system.

According to ESSOSS, EUR 39.3 billion were spent on all pensions and pension-like benefits as well as company pensions in 2009 (see following chart). This corresponds to 49% of social expenditure or 14% of GDP. 70% of pension expenditure is incurred by the mandatory pension scheme, 24% of the amount is spent on civil servants' pensions, 2% on pension-like benefits under accident insurance, less than 1% on war victim compensation and 4% go to company pensions.

Pension expenditure¹ according to institutions, 2008

in billion EUR	
Statutory pension insurance scheme	27.4
Civil servants' pensions	9.5
Accident insurance	0.6
Benefits under cash-income support laws	0.2
Company pensions ²	1.6
Total	39.3

1) excluding transfers between social security schemes

2) Data for company pensions in 2008; 2009 data were not available at the time this publication went to press.

Source: Statistik Austria, BMASK: ESSOSS database on social expenditure

In the past decade, the retirement income provision schemes were reformed fundamentally, since there had been major differences between the mandatory pension insurance scheme and the civil servants scheme. Under the Act on the Harmonisation of Austrian Pension Systems, which took effect on 1 January 2005, uniform pension laws were created for all persons gainfully employed or self-employed (blue-collar and white-collar workers, farmers, self-employed trades- and craftspeople, federal civil servants).

The goal of uniform pension legislation for all gainfully employed or self-employed is that everyone will receive 80% of the average lifetime income at the age of 65, provided that the person in question has 45 insurance years. Each insured person has an own pension account, which ensures transparency of the system. The contributions paid and valorised as well as the entitlements obtained (e.g. for periods spent bringing up children, or doing military or civilian service) are listed. Entitlements shown in the pension account cannot be subject to any interference.

The following sections present more details about old-age pensions under the mandatory pension insurance scheme, the civil servants' scheme and the social indemnification scheme⁸.

8. Employee income provision funds, which partly serve company pension purposes, are described in Chapter 12 (entitlements under labour law). Chapter 5 deals with survivors' pensions and Chapter 6 with invalidity pensions, which largely also concern persons above the ages of 60/65.

4.2. Mandatory pension insurance

Retirement income provision for the majority of Austrians (with the exception of civil servants) is based on the mandatory pension insurance scheme. Old-age pensions are meant to substitute, to a reasonable extent, the contributory incomes from work, which are no longer available after retirement. Moreover, the mandatory pension insurance also offers protection to those with reduced capacity to work (see Chapter 6) and survivors (see Chapter 5).

4.2.1. Financing

The mandatory pension insurance is primarily financed under the pay-as-you-go system ('intergenerational contract'). This means that the benefits paid under the pension insurance in any given calendar year are financed from

the contributions by the insured persons in that calendar year. By paying contributions, the contributors acquire entitlements to benefits, which will be funded from the contributions of the following generations.

At the end of 2009, 3.4 million persons were insured under this pension insurance system (usually gainfully working persons), and 2.2 million⁹ pensions were paid under the mandatory pension insurance scheme. This means a relation of 636 pensions per 1,000 contributors to the pension scheme.

The contributions by insured persons are supplemented by transfers from other schemes (e.g. unemployment¹⁰ insurance, Family Burden Equalisation Fund) and a contribution from the

Total expenditure and share of federal funds according to pension insurance institutions, 2009, in billion EUR*

	Total expenditure of PI	Deficiency guar.	Reimbursement for equalisation supplement	Federal funds in % of total expenditure
Pension insurance of employees	26.9	3.9	0.7	17
Pension insurance of self-employed	4.8	2.0	0.3	49
Pension insurance total	31.7	5.9	1	22

* preliminary data 2009 (as of February 2010)

Source: Financial statistics 2009

federal budget. In this context, each pension insurance institution receives from the federal government a contribution equivalent to the amount by which expenditures exceed receipts (deficiency guarantee). 21.8% of the expenditure incurred by the pension insurance in 2009 comes from the federal budget (deficiency guarantee, including reimbursement for equalisation supplement and compensation for prisoners of war).

In 2010, the contributory rate to pension insurance under the General Social Insurance Act (ASVG) is 22.8% (employee rate: 10.25%, employer rate: 12.55%) of the contribution base. Contributions are determined up to a ceiling on insurable earnings (2010: EUR 4,110 per month). Any income exceeding the ceiling on insurable earnings is not subject to contributions.

4.2.2. Types of benefits from the pension insurance

Apart from old-age pensions, the pension insurance system also covers benefits for survivors and invalids. In addition, health-care measures are financed, though to a comparatively smaller extent; these aim at preventing early invalidity.

At the end of 2009, 61% of pensioners are women. The large share of women is primarily due to the high number of widows' pensions. The share of women who receive an old-age pension is also larger due to the fact that they retire at an earlier age and mainly because their life expectancy is markedly higher than that of men so that they receive pensions for a longer period.

9. December 2009

10. Periods of unemployment or child education are taken into account for the calculation of the pension amount.

Pensioner figures for the statutory pension insurance scheme (in thousands) for December 2009

	Total	Men	Women
Invalidity pensions	460	275	185
Regular old-age pensions	1,103	447	656
Early retirement on old-age pensions due to unemployment	0	0	0
Early retirement on old-age pensions due to long insurance periods	24	10	14
Early retirement on old-age pensions due to reduced capacity to work	1	0	0
Part-time pension	0	0	0
Pensions for persons with long insurance periods	75	46	29
Corridor pension	8	8	0
Manual labour pension	2	2	0
All old-age pensions	1,212	514	699
Widows'/widowers' pensions	468	42	426
Orphans' pensions	49	24	25
Pensions in total	2,189	855	1,334

Source: BMASK

50% of pensions are regular old-age pensions, 5% are old-age pensions under early retirement, 24% are survivors' pensions and 21% are invalidity pensions. Whilst 34% of all pensions received by women are survivors' pensions (survivors' pension share for men: 8%), pensions due to invalidity play an even greater role in the overall structure of men (including early retirement on an old-age pension due to reduced capacity to work); their share is 32% (women: 14%).

As per 1 July 2009, 1,704,000 persons received a pension, and 241,000 persons had more than one pension under the mandatory pension insurance system. In most cases, women receive a survivors' pension in addition to their old-age or invalidity pension.

4.2.3. Mandatory retirement age

Between 2004 and 2017, the mandatory retirement age is rising continuously to 65 years for all men and 60 years for all women, because the option of early retirement due to long insured periods is being phased out. As per 1 January 2010, the retirement age under this provision was 58 years for women and 63 years and 5 months for men.

The age, at which women are eligible for retiring on an old-age pension, will be gradually raised from 2024 to 2033 to approach that of men.

As from 2017, men will be eligible for retiring on an old-age pension at the age of 65 and women at the age of 60, but there are some exceptions to this rule:

Corridor pension

This allows for retirement at the age of 62; however in such a case a deduction of 2.1% for each year of retirement prior to the regular pension age must be accepted. This deduction is smaller than the ceiling on losses when pensions are calculated according to pension legislation prior to 1 January 2005 or 'parallel calculations' (comparing the situation under old and new legislation).

Manual labour pension

This type of pension allows men and women to retire at the age of 60, subject to a deduction of 1.8% for each year of retirement prior to the regular pension age. The prerequisite is that insurance periods total 45 years and that out of the last 20 before retirement, at least 10 years

were spent working in jobs defined as manual labour (this is determined according to detailed criteria).

Pension subject to long insured periods

Men may retire at the age of 60 and women at the age of 55 if their insured periods total 45 contributory years (men) or 40 contributory years (women), respectively. This provision is valid and limited until the end of 2013.

4.2.4. Actual retirement age

In 2009, the actual age of retirement of women was 59.3 (2000: 58.3) years; whereas that of men was 62.5 (2000: 60.5) years. If invalidity pensions are taken into account in this calculation, the actual retirement age in the context of direct pensions was 57.1 (2000: 56.8) years for women and 59.1 (2000: 58.5) years for men.

Retirement ages

	2000	2009
Old-age pensions		
Men	60.5	62.5
Women	58.3	59.3
Average	59.4	60.8
Invalidity pensions		
Men	51.8	53.6
Women	49.2	50.2
Average	50.8	52.4
Old-age and invalidity pensions		
Men	58.5	59.1
Women	56.8	57.1
Average	57.7	58.2

Source: BMASK

4.2.5. Pension calculations

Old-age pensions are meant to substitute, to a reasonable extent, the contributory incomes from work, which are no longer available after retirement. Pensions are assessed on the basis of an average contributory income (contribution base).

In the framework of the pensions reforms of the past few years, insured persons were grouped

into three groups whose pensions calculated are subject to different rules:

- A) Persons who were past their 50th birthday on 1 January 2005; they are concerned by two sets of legislation (the legal situations as at 31 December 2003 and at 1 January 2004).
- B) Persons who were not past their 50th birthday on 1 January 2005 but had already acquired insured periods are concerned by three sets of legislation (the legal situations as at 31 December 2003, as at 1 January 2004 and as at 1 January 2005).
- C) Persons who took up work subject to mandatory insurance for the first time after 1 January 2005; they are subject to the legislation effective as from 1 January 2005.

The following four factors are primarily decisive for the pension amount:

- the number of insured months acquired
- the assessment basis
- the retirement age and
- in case of low pensions, the title to a supplement (equalisation supplement) for indigent persons.

Under the pension insurance legislation in force prior to 1 January 2005 (also referred to as 'former legislation'), insured months are defined as months, for which pension insurance contributions were paid under a mandatory or voluntary insurance scheme, as well as equivalent periods (fictitious qualifying periods), which were credited although no contributions were paid (e.g. periods when sickness benefit, unemployment benefit, maternity allowance were received, periods of military service, training, civilian service, periods spent raising children). Under the new legal provisions, the applicable term is 'contributory months' but some contributions are paid from public funds or under social protection systems (previous 'credited periods').

Originally, the assessment base was calculated from the then applicable contribution bases, i.e. the income from work in the 180 'best paid' contributory months (15 years) – 'best' in terms of annual average; in the course of the pension reform this period for averaging is being extended in steps to 480 months (40 years). As from the year 2028, the average calculated from the 480 highest total monthly contribution bases

constitutes the period from the date when the insured party became first insured, to the last day of the calendar year, prior to the key date for retirement. This formula will be used for the calculation of the assessment base. If fewer than 480 contributory months have been acquired, the assessment base will be determined from the available months.

Until 2003, 2% of the assessment base per year was due as increments. Under the pension reform of 2003, the increment was gradually lowered to 1.78% by 2009.

Ceilings on losses were introduced in the framework of the pensions reforms. For persons, who are at working age, any possible losses which are the consequence of pension reforms, will be kept to an acceptable extent (compared to the former legislation). In 2004, pension reductions (compared to the former legislation) due to the pension reform were limited to a maximum of 5%. This percentage is raised by 0.25 percentage points per year and will amount to a maximum of 10% as from 2024.

A) Persons who were past their 50th birthday on 1 January 2005

The pension amount for this group of persons is calculated according to the rules applicable as of 31 December, 2003 (at this time, the period for the averaging of working time was 15 or up to 18 years, the increment was 2% and past incomes were valorised according to a rate determined by inflation). Moreover, another pension amount is calculated on the basis of legislation as of 1 January, 2004 (subject to the period for the averaging of working time and the increment applicable for the year of retirement, with past incomes being valorised according to a rate determined by inflation). This is the pension amount paid out. However, it must not be lower than 90% of the pension calculated according to the rules applicable until 31 December, 2003 (or the amount applicable for the year of retirement subject to the ceiling on losses effective then).

B) Persons who were not past their 50th birthday on 1 January, 2005

Pension amounts for this group of persons are calculated in so-called 'parallel calculations'. First, a pension amount subject to the former legislation, i.e. legislation applicable as of 31 December, 2003 and 1 January, 2004 is determined (see A). Then, a pension is calculated in line

with the 'pension account system' as of 1 January, 2005. The two pension amounts are each weighted with a certain factor (reflecting the periods, which an insured party was insured for under each of the rules – according to the pro rata temporis method) and added up in the total pension amount. This amount will be paid out. For example, if an insured person retires in 2020 after 40 insurance years, the pension amount will be composed of 25/40* the pension amount under the former legislation plus 15/40* the pension amount under the 'pension account system'.

The respective periods for averaging and increments as well as inflation-oriented valorisation of past incomes apply to the part of the pension subject to the former legislation. The part of the pension from the 'pension account system' is characterised by lifetime income being used for the averaging, an increment of 1.78% per insurance year and a valorisation of past incomes determined by wage increases.

C) Persons who took up work for the first time after 1 January, 2005

The pension account system fully applies to this group of persons. In the individual, performance-oriented pension account, which was introduced in conjunction with the harmonisation of pensions, pensions are calculated according to the '80-45-65' formula. This means that an insured person will reach the maximum pension of 80% of his/her average lifetime earnings after 45 insurance years and at a retirement age of 65.

Insurance periods recorded in the pension account exclusively are contributory periods. Fictitious qualifying periods, which existed under the former system, were transformed into partial insurance periods, and the federal government or other institutions (the Public Employment Service AMS, the Family Burden Equalisation Fund) have to pay contributions for these. As regards pension insurance, for example, the Family Burden Equalisation Fund has to transfer a pension contribution to the pension insurance institution for each month credited as time spent bringing up children.

The increment per insurance year under the pension account system is 1.78%; and the valorisation of past incomes is determined by wage increases.

Compensatory measures, particularly for women

To soften possible negative consequences of the pension reforms for women (especially the larger number of contributory months required for the assessment basis, raised from a total of 15 to 45 years) and to compensate to a certain extent for the disadvantages suffered by women on the labour, the following gender-specific measures were taken in the framework of the pensions reforms:

- The assessment base for times spent bringing up children was raised to EUR 1,529 a month in 2010. This amount corresponds roughly to the average income of women from gainful work and is being valorised annually. Times spent bringing up children, which are credited as pensionable years, amount to up to four years per child (formerly two years) and up to five years in case of multiple births.
- The minimum number of contribution years in gainful employment required for an old-age pension is 7 years now (hitherto 15 years). Times spent as a carer for a disabled child, for nursing a close relative entitled to at least level 3 of the long-term care allowance or times spent on family hospice leave (family-oriented care of the dying and/or care of seriously ill children) qualify as times of gainful work.
- Provisions governing early retirement due to long insured periods continue to apply to women; they will only be phased out in 2017.
- To improve the legal situation under social law of i.e. women, who are exclusively engaged in the care of a disabled child, it is possible for them to select voluntary non-contributory insurance up until the child turns 40 (so far this was limited to the time until the child turned 30).
- The introduction of voluntary ‘pension splitting’ for periods spent bringing up children under the Austrian social insurance system started a new era, which provides women with pension entitlements of their own.
- For the assessment of eligibility and under certain provisions, periods spent bringing up children, just as periods of confinement benefit receipt, are equal to long-term insurance periods and long-term insurance periods for manual workers.

4.2.6. Pension amounts

In December 2009, the average gross old-age pension amount (including additional allowances and supplements) was EUR 1,100 (14 times a year). In 2008, the average gross old-age pension amount (including allowances and supplements) amounted to 55% of average gross incomes from gainful employment for all blue-collar and white-collar workers.

Average old-age pensions, December 2009, in EUR

	Men	Women
Blue-collar workers	1,060	610
White-collar workers	1870	1,090
Self-employed persons	1,580	990
Farmers	1,030	540
All pension insurance institutions	1,440	850

Source: BMASK

Pension amounts differ in a gender-specific way, thus reflecting differences in contribution years and in income from gainful employment. The average old-age pension of women from mandatory pension insurance (EUR 853) corresponds to 59% of the average pension paid out to men (EUR 1,436).

4.2.7. Minimum income from pension insurance

The Austrian pension insurance system does not provide for an unconditional minimum pension for persons beyond a certain age. However, a means-tested equalisation supplement guarantees a minimum income for persons eligible for a pension (see Chapter 11).

4.2.8. Financial sustainability

Under the General Social Insurance Act (ASVG), the ‘Commission on the long-term safeguarding of pensions’ is, amongst other things, in charge of reporting every third year (starting 2007) on the long-term financing prospects of the mandatory pension scheme until 2050. If the commission identifies, for the entire period, a mean deviation of more than 3% from the average pension-related life expectancy over the age of 65, its report has to propose sustainable reform measures as to how the expected additional expenditure can

be compensated for and spread evenly over the parameters 'contribution rate', 'pension-account increment', 'retirement age', 'pension adjustment'

and 'contribution from the federal budget' whilst considering the fact that they are effective at different points of time.

4.3. Civil servants' pensions

At present, the pension schemes of civil servants (persons in the public service with tenured positions) still play an important role in the overall system of retirement income provision. About 14% of all pensions are civil servants' pensions. In the future, separate retirement income provision for civil servants will gradually decline as the number of persons in the public service who are given tenured status, is decreasing. Gradually, civil servants' pension legislation is being harmonised with the mandatory pension insurance scheme.

Since 1997, several pension reforms concerning currently active civil servants have led to a gradual harmonisation of the civil servants' pension legislation – which has in many respects been more generous – with the law governing the mandatory pension scheme.

For the most part, retired civil servants still receive pensions based on earlier legislation (e.g. pension assessment based on the last salary earned, higher increments per year of work).

Due to the 2004 pension reform ('harmonisation'), the provisions governing the mandatory pension insurance system will apply to civil servants under the age of 50. For civil servants born in 1955 and after, who are in active service, the special pension legislation for civil servants will only apply up to a certain percentage in the calculation of the total pensions, depending on the number of years working as a civil servant up until 31 December 2004 (former legislation). The remaining portion of the pension will be assessed according to the rules applying to the mandatory pension scheme (current legislation). Civil servants given tenured status as from 1 January 2005 will receive pensions calculated in accordance with the rules applying to the mandatory pension scheme.

Civil servants working for the Laender and local authorities are subject to separate and differing pension laws. Several Laender have already started with the implementation of the reform mentioned above ('harmonisation').

Civil servants pay pension contributions. During active service, these amount to 12.55% of the salary if the civil servant was born before 31 December 1954. The pension contributions to be paid by civil servants born on 1 January 1955 or after depend on the year of birth; the rate up to the ceiling on insurable earnings (EUR 4,110 in 2010) is 12.4%; the rate above the ceiling is maximally 11.73%. Regional authorities do not provide for employer's pension contributions for their civil servants. With regard to payment of pensions, they cover the balance between revenues from pension contributions and pensions paid out.

Retired civil servants pay pension contributions amounting between 2.28% and 3.3%, depending on the year of retirement.

The regular retirement age will rise to 65 by 2017. At present, it is 63. Retirement before the regular retirement age is subject to deductions from the pension amount (with the exception of long insured periods).

Civil servants permanently incapable of working have to be retired, regardless of their age.

Civil servants' pensions are calculated on the basis of a pension calculation basis, which can be defined as the average of a certain number of maximum contribution bases. Given there are no deductions, 80% of the pension calculation basis constitutes the pension assessment basis. The percentage of this calculation basis due as an old-age pension depends on the number of total pensionable service years. At present, the number of service years required to reach the maximum has to exceed 35 years. After a transition period, civil servants will need 45 service years in order to receive 80% of pension calculation basis as an old-age pension.

Under the former legislation – in difference to the new regulations and to the mandatory pension scheme – there is no ceiling on the pension amount for civil servants.

4.4. Social indemnification systems¹¹

Cash income support for victims of war

Austrian nationals who had to perform military service during the World Wars and for this reason suffered health impairments are considered to be war victims under the act on cash income support for victims of war (Kriegsopferversorgungsgesetz, KOVG). Also civilians, whose health was impaired without their fault due to military operations, are also considered part

of this group. The act on cash income support for victims of war includes recurring benefits, therapeutic welfare and orthopaedic care as well as medical, occupational and social rehabilitation measures.

On 1 January 2010 the number of recipients of these benefits was at 32,000. In 2009, total financial expenditure was at approximately EUR 200 million.

Monthly cash benefits regarding Cash income support for victims of war, 2010

Benefits to impaired persons	monthly amounts in EUR
Basic pension	from 48 to 478
Old-age or handicap allowance	from 20 to 187
Allowance for serious impairment	from 144 to 383
Means-tested pension supplement	up to 767
Contribution towards the cost of special diet	from 30 to 90
Special care allowance, allowance for the blind	from 629 to 2,513

Source: BMASK

Victim Welfare

Under the Victim Welfare Act (Opferfürsorgegesetz), victims who were in the resistance movement or suffered political persecution and sustained health impairments during the years from 1933 to 1945, receive a number of recurring benefits similar to those under the scheme for the compensation of war victims.

Moreover, the act also provides for supplements for imprisonment amounting to EUR 45 per month (2010) and means-tested annuities (up to EUR 1,018 per month for persons living single, up to EUR 1,396 for married victims or victims living with a life-partner, and up to EUR 933 for survivors). Moreover, the act covers therapeutic measures and orthopaedic care as well as occupational and social rehabilitation.

In 2005, victims of the National Socialist military judiciary as well as victims of National Socialism

persecuted for their sexual orientation or on charges of 'anti-social behaviour' were accorded entitlement to victim welfare.

On 1 January 2010, the number of recipients of these benefits was at 1,900. In 2009, total financial expenditure was at EUR 18 million.

Indemnification of prisoners of war

The Act on the Indemnification of Prisoners of War (Kriegsgefangenenentschädigungsgesetz, KGEG) governs an indemnification graduated according to the duration of captivity, which is paid to Austrian nationals, who have their habitual residence in Austria and who were prisoners of war in Central or Eastern European countries in the course of World War II.

Likewise, persons, who were prisoners of war of the Western Allies in World War II; persons, who were arrested outside of Austria and placed in

11. In principle, the social indemnification schemes (compensation to war victims, indemnification to prisoners of war, victim welfare) belong to the context of invalidity provision. Since most persons concerned by social indemnification laws – war victims and their survivors – are 60 years and over (98%), these laws mainly serve the function of retirement income provision. The same applies to victim welfare.

civilian detention; persons with habitual residence outside of Austria or prisoners of war of World War I have also been eligible for indemnification under the act.

The Act of Indemnification of Prisoners of War provides for monthly benefits of EUR 15 to EUR 37, depending on the duration of captivity. On 1 January 2010, 40,000 persons received indemnification. In 2009, financial expenditure was at EUR 9 million.

CHAPTER 5

SURVIVORS' PENSIONS

5.1.	Overview	34
5.2.	Mandatory pension insurance scheme	34
5.3.	Survivors' income provision under other social protection systems	35

5.1. Overview

In Austria, survivors' pensions (widows', widowers' and orphans' pensions) play an important role. About 25% of all pensions are survivors' pensions.

Total expenditure on survivors' pensions under the mandatory pension insurance scheme, the civil servants' pension scheme, accident insurance and social indemnification amounted to EUR 5.5 billion in 2009, which corresponds to 7% of social spending or 2% of GDP.

87% of those who receive widows'/widowers' pensions are women. Due to the fact that the

rate of participation in employment used to be low for women in former times, about one third of women over the age of 60 do not qualify for an old-age pension of their own. Survivors' pensions are thus an important way of providing for the subsistence of many of these women. 82% of survivors' pensions are paid to persons over 60/65 years of age.

50% of survivors' pension recipients also receive an additional old-age or invalidity pension or a civil servants' pension.

Expenditure on survivors' pensions 2009¹

	in billion EUR Expenditure	in thousand Recipients ²
Statutory pension insurance ³	4.29	517
Civil servants	1.03	91 ⁴
Social indemnification acts ⁵	0.11	15 ⁴
Occupational accident insurance	0.12	17
Total	5,5	640

1 ESSOSS 2009 data was used for expenditure (except civil servants' pensions ESSOSS 2008).

2 87% of recipients of survivors' pensions are women.

3 Preliminary data for 2009. Equalisation supplement is paid in addition to basic pension (multiple drawing of pension benefits). The number of recipients equals the number of recipients of a basic pension.

4 ESSOSS data 2008

5 survivors' pension from social indemnification

Source: Pension insurance institution, annual statistics 2009; Association of Austrian Social Insurance Institutions' monthly report, December 2009; Association of Austrian Social Insurance Institutions – preliminary data for the year 2009; Austrian statistical office – Statistik Austria, BMASK: ESSOSS database on social expenditure

5.2. Mandatory pension insurance scheme

Eligibility requirements

Eligibility requirements are similar under the mandatory pension insurance scheme and the civil servants' system; the standard is rather generous compared to other EU-member states. Widows/widowers, who are past their 35th birthday when the spouse passes away, are entitled to a widow's or widower's pension for lifetime unless they re-marry.

Widows/widowers are also entitled to a recurring benefit if they are younger than 35 and if they are incapable of working and had primarily been

maintained by the spouse or if a child was born from marriage, if the wife is pregnant when the husband dies, or if the spouses had been married for at least 10 years.

Those, who do not fulfil any of these requirements, are entitled to a survivors' benefit for 30 months. This time restriction also applies to widows and widowers who were married at a time when the deceased spouse had already retired on an old-age or invalidity pension. In such cases, the entitlement to a recurring widows' or widowers' pension will depend on certain duration of marriage (3, 5 or 10 years). The duration criterion

in turn depends on the age difference between the spouses: if the age difference is more than 25 years, the marriage must have lasted for at least 10 years. A recurring benefit will in any event be due in these cases if a child was born from the marriage.

Entitlements to widows'/widowers' pensions may also arise in case of divorce, if the survivor was entitled to alimony or alimony was paid at the time of the ex-spouse's death. In such cases the widows'/widowers' pensions are limited to the alimony amount. Sometimes (first and foremost dependent on the type of divorce) there is no ceiling.

The amount of the widows' or widowers' pensions is based on the relation between the incomes of the deceased and the surviving spouse in the two calendar years preceding one spouse's death. The bandspreath ranges from 0% to 60% of the deceased spouse's (fictitious) pension; there is a lower threshold to protect survivors with a low income (in the calendar year 2010, EUR 1,692.99 per month) and a ceiling for high incomes (calendar year 2010: EUR 8,220 per month).

In December 2009, the average widows' pension under the mandatory pension insurance scheme was EUR 645, the average widowers' pension was EUR 288 (14 times a year).

In December 2009, 50% of those who received such a pension under the mandatory pension insurance scheme were also entitled to an old-age or invalidity pension.

Women, who are only entitled to a widow's pension, received an average EUR 609 (14 times a year) in December 2009. The amount rose to EUR 1,381 (with allowance and supplements) if they were entitled to a further pension benefit.

Orphans' pensions

In case of orphans' pensions, the deceased parents' qualifying period (the same as for invalidity pensions) has to be complied with, and children are eligible for an orphan's pension if they are under 18 years of age. Moreover, orphans' pensions are paid for as long as orphans are enrolled in schooling or training or if they are incapable of working.

Orphans' pensions amount to 24% of the pension that would have been due to the deceased parent for half-orphans, and 36% for orphans.

In 2008, 55,000 children and adults received orphans' pensions (including civil servants scheme). 30% of these recipients were over 27 years of age. For this group of the population (adult orphans incapable of working), the orphans' pensions function as a way of safeguarding their subsistence.

5.3. Survivors' income provision under other social protection systems

Entitlements under the civil servants' pension scheme are similar to those under the mandatory pension insurance scheme.

The laws governing social indemnification (see Chapter 4) provide for survivors' benefits. At the

end of 2009, benefits under the Act for cash income support for victims of war were paid to 19,600 survivors whereas 675 survivors received benefits under the Victim Welfare Act, 78 under the Act on Military Service Victim Support and 28 under the Victim Welfare Act.

CHAPTER 6

INVALIDITY PENSIONS

6.1.	Overview	38
6.2.	Invalidity pensions under the mandatory pension insurance scheme	38
6.2.1.	Eligibility	39
6.2.2.	Calculation of invalidity pensions	40
6.2.3.	Priority to rehabilitation	40
6.2.4.	Statistical data on invalidity pensions under the mandatory pension scheme	40
6.3.	Civil servants	41
6.4.	Disability pensions	42
6.5.	Social indemnification acts	43

6.1. Overview

In cases of permanently reduced capacity or total incapacity to work, certain social protection systems provide cash benefits, services, assistance in the context of re-integration into employment and special protection under labour law for defined groups of persons.

Cash benefits under the mandatory pension insurance scheme are referred to as invalidity pensions (Invaliditätspensionen); they also exist for civil servants (Ruhebezüge) under the law governing civil servants' pensions. Due to occupational accidents or illnesses, insured persons are also entitled to cash benefits called disability pensions (Versehrtenrenten) under the accident insurance scheme. If a person in case of invalidity is not eligible for cash benefits from these social security systems, and if no sufficient maintenance on the part of the family is available, this person's subsistence has to be safeguarded by the needs-based minimum benefit system (social assistance until 2010).

Apart from these cash benefits, the social in-

surance institutions, the Public Employment Service, the Federal Ministry of Social Affairs and Consumer Protection (primarily via the Federal Social Office) as well as the Laender and local authorities offer medical, social and occupational rehabilitation and support in the context of employment; such offers may differ, depending on the responsibilities and jurisdiction of the respective organisation.

According to the EUROSTAT-ESSOSS methodology on social spending, social security benefits due to invalidity only apply to persons under the retirement age (60/65 years). In 2009, expenditure on invalidity-related pensions for this group of persons amounted to EUR 4.3 billion. This corresponds to 5% of all social benefits and 1.5% of GDP.

EUR 3.1 billion are spent on invalidity-related cash benefits for persons over the ages of 60/65¹². In total, invalidity pensions amount to more than EUR 7 billion.

6.2. Invalidity pensions under the mandatory pension insurance scheme

In this section, all invalidity-related pensions are subsumed under the term 'invalidity pension': invalidity pensions for blue-collar workers, pensions for occupational disability for white-

collar workers, pensions for general disability for self-employed persons as well as loss of earnings capacity pensions for farmers.

Expenditure on invalidity and disability pensions in billion EUR, 2009

	Under 60/65 years of age	Over 60/65 years of age	total
Invalidity pensions under pension insurance	3.11	2.91	6.02
Civil servants' invalidity pension ¹	1.06	none	1.06
Special laws on cash-income support ²	0.02	0.08	0.10
Disability pension under accident insurance	0.27	0.16	0.43
Total	4.46	3.15	7.61

1 There is no explicit invalidity pension for civil servants. All direct pensions paid prior to the age of 60 are included as invalidity pensions here.

2 Special laws on cash-income support, social indemnification.

Source: BMASK, Austrian statistical office – Statistik Austria, ESSOSS database on social expenditure as of May 2010

12. Austria differs from the majority of EU member states in the fact that invalidity pensions under the mandatory pension insurance scheme and pension-like benefits under the accident insurance scheme (disability pensions) are not transformed into old-age pensions once the retirement age has been reached; they continue to figure as invalidity and disability pensions in the statistics. In late 2009, a total of 460,000 invalidity pensions were paid under the mandatory pension insurance scheme, out of which 55% went to persons over the ages of 60/65.

Persons entitled to invalidity pensions, 2009¹

	in thousand		
	under 60/65	over 60/65	total
Statutory pension insurance	207	253	460
Civil servants ²	37	190	227
Disability pension ³	49	40	89
Total	293	483	776

1 incl. early old-age pensions due to reduced capacity to work; without pensions due to occupational accidents. Two thirds of all persons entitled to invalidity pensions are men.

2 Data 2008

3 Occupational accident insurance 2008

Source: Pension insurance annual statistics for 2009; Austrian statistical office – Statistik Austria, BMASK: ESSOSS database on social expenditure

6.2.1. Eligibility

Eligibility for an invalidity pension requires proof of a certain insured period; depending on the age of the person concerned, it ranges between 6 months and 15 years. Invalidity is determined on the basis of health impairments and the occupation primarily exercised (in the previous 15 years).

Entitlements differ according to the status under social law (blue-collar and white-collar workers) and the nature of the occupation.

Invalidity of blue-collar workers

Among blue-collar workers, distinctions are drawn between:

- skilled work (completed apprenticeship)
- semi-skilled work (acquisition of skills and knowledge by practical work experience) and
- unskilled work (no training or skills).

Insured parties who were employed as a skilled or semi-skilled worker are entitled to the same right to pursue their original occupation as white-collar workers. If they are unable to exercise the occupation for which they were being trained or in which they acquired skills because of reduced capacity to work, they may be referred to other occupations within the same occupational category (occupational protection).

The term invalid is defined as a reduction of the capacity to work, due to one's physical or mental state, to less than half of the capacity of a physically or mentally healthy person with similar training and equivalent skills and capabilities in each occupation this person can be employed.

If unskilled workers are unable to work in their job due to their physical or mental state, they may be referred to any job in the general labour market available for gainful employment, which they may reasonably be asked to work in, considering their previous jobs. Unlike skilled or semi-skilled blue-collar workers, they do not enjoy occupational protection. Unskilled workers are regarded as invalid if they are no longer able to work in a reasonable job and earn at least half of the wages, which physically or mentally healthy persons would normally earn. They may be referred to jobs in all areas of the labour market.

However, persons over 57 enjoy work protection. Persons past their 57th birthday are considered invalids if, due to illness or infirmity, they are unable to continue doing the work they did for at least 10 years in the previous 15 years.

Invalidity of white-collar workers

White-collar workers are considered invalids if, due to their physical or mental state, their capacity to work has declined to less than half of the capacity of healthy persons with comparable vocational training and equivalent skills and capabilities. Based on a medical opinion, demands made on a healthy insured person in the same occupation and the performance of the invalid person is compared. In this context, it has to be taken into account that pension applicants may also be referred to other jobs in the same category of occupations (occupations eligible for reference). For workers over 57 years of age, the principle of work protection applies in the same way as for blue-collar workers.

Invalidity of self-employed persons in trades or crafts

Persons, who have not yet turned 50 are considered invalids if, due to their state of health, they are unable to work on a regular basis. The realistic possibility of finding appropriate work in the labour market, which the person concerned is able to pursue, is not relevant in this context. The insured person may be referred to jobs in the entire labour market.

Persons past their 50th birthday are regarded as invalids if their personal work performance was required to maintain their business operations, and if due to their state of health, they are no longer able to be self-employed in the same or a similar business line, in which they had been working in the previous 60 calendar months (occupational protection). At the age of 57 and over, the principle of work protection applies in the same way as it applies to blue-collar and white-collar workers.

Invalidity of farmers

The state of invalidity is defined as the inability to pursue regular gainful work due to impaired health. This includes both the ability to be self-employed and employed. Insured persons may be referred to jobs in the entire labour market. At the age of 57 and over, the principle of work protection applies in the same way as it applies to the groups listed above.

6.2.2. Calculation of invalidity pensions

Invalidity pensions and old-age pensions (see Chapter 4) are calculated according to similar principles. The number of acquired insurance months, the assessment base and the actual retirement age are the relevant factors.

Since early retirement would result in a very low pension amount, there are additional rules to help cushion the drop in income. In the calculation of an invalidity pension, all months up until the age of 60 and not only the actual insurance years are used to determine the increment. However, there is an upper threshold of 60% with regard to the assessment basis.

Moreover, there is a ceiling on losses due to deductions applicable because of early retirement. The deductions (4.2 percentage points per year before the regular retirement age has been

reached) must not exceed 15 percentage points.

6.2.3. Priority to rehabilitation

A pension will only be granted for an indefinite period of time if invalidity excludes further gainful work in the long run. If it seems possible that the invalid can be re-integrated into working life, a temporary benefit is combined with rehabilitation measures of a medical or occupational nature (e.g. re-training), or social rehabilitation (e.g. by means of a loan). During rehabilitation, a transitional benefit of the same amount as a pension is paid instead of the invalidity pension.

In 2009, about 40% of newly granted benefits are transitional benefits paid for a maximum of 24 months, with an extension option. Once granted, invalidity pensions may also be revoked if the pensioner's state of health improves considerably. However, it may no longer be revoked if female recipients have reached the age of 60 or if male recipients have reached the age of 65.

6.2.4. Statistical data on invalidity pensions under the mandatory pension scheme

Number of pensions

As per December 2009, the mandatory pension insurance system paid 460,000 invalidity pensions¹³. This corresponds to roughly one fifth (21%) of the pensions paid under the mandatory pension insurance scheme. Almost half of these pensions (45%) go to persons below the regular retirement age.

In 2009, 31% of newly granted direct pensions (not including survivors' pensions) were invalidity pensions. The share of men is disproportionately high. Two thirds (64%) of all newly granted invalidity pensions went to men. Under the farmers' pension insurance scheme, 68% of persons of male gender, who retired in 2009, did so on grounds of invalidity; the percentage was 38% under the insurance scheme of employed persons.

In 2009, about 76,000 applications for an invalidity pension were filed. More than half of them (56%) were dismissed. In 2008, 23,000 lawsuits were filed at the Labour and Social Court, due to dismissal of applications for invalidity pension. 23% of the lawsuits were

13. As early old-age pensions due to reduced capacity to work are being phased out, there were only 560 recipients of this kind of benefit in 2009

decided in favour of the plaintiffs (i.e. the plaintiffs prevailed or a settlement was reached).

Causes of invalidity

In 2009, the three most important groups of health impairments, which play a role in the granting of an invalidity pension, are conditions of the musculoskeletal apparatus and connective tissues (32%), psychiatric conditions (30%) and cardiovascular diseases (11%).

Data on recipients' age

In 2009, the average age, at which persons were granted invalidity pensions, was 52.4 years (50.2 years for women, 53.6 years for men). This average age is 8.4 years below the average age, applicable to old-age pensions (60.8 years). Looking at direct pensions overall (i.e. the sum total of old-age and invalidity pensions) the average age of retirement on one of the two types of pensions was 57.1 years for women and 59.1 years for men in 2009.

Invalidity pension amounts

On average, invalidity pensions are markedly lower than old-age pensions, a fact due to the

lower number of insurance years. At the end of 2009, the average invalidity pension amount under the pension insurance scheme was EUR 930 (EUR 1,120 for men and EUR 640 for women, 14 times a year). Thus, the average invalidity pension amount for men was 22% lower than the average old-age pension for men. For women, the difference was 25%.

Average invalidity pension amounts under statutory pension insurance scheme in EUR, 2009

	Men	Women
Blue-collar workers	1,020	590
White-collar workers	1,460	830
Self-employed persons	1,180	680
Farmers	960	460
Pensions total	1,120	640

Source: BMASK

6.3. Civil servants

Retirement due to permanent incapacity to work

Civil servants are retired *ex officio* or on application if they are permanently incapable to work. Incapacity to work is defined as the civil servant's inability to properly fulfil one's duties due to physical or mental deficits. This does not mean that the inability to fulfil any duty properly is concerned; incapacity to work signifies a civil servant's inability to fulfil the duties assigned in his/her specific workplace. In this sense, anything that makes the civil servant unsuited to perform his/her duties is subsumed under the heading of incapacity to work as a civil servant – not only health impairments, but also habitual character features or mental deficits, which rule out the due fulfilment of assignments. To be accepted, the related medical report has to contain a description of jobs the civil servant is still or no longer able to perform.

For a civil servant to retire on an invalidity pension, the medical report must contain a well-

founded prognosis that the incapacity to fulfil official duties will be permanent in nature. Moreover, it must be impossible to assign the civil servant to at least an equivalent workplace within the purview of the service he/she is employed with.

To determine the physical and mental state of the civil servant, a medical opinion must be obtained from the Federal Retirement Pension Office. Assessing the civil servant's ability or inability to fulfil his/her duties lies in the responsibility of his/her employing service and is not a task of the medical expert.

If a civil servant is retired due to permanent inability to do his/her duties, up to 10 years are added as a rule to the actual number of insurance years for the calculation of the pension.

For civil servants, retirement prior to the mandatory retirement age results in a lowering of the pension assessment base from 80% to 62%. For each month between the date of early retirement and the earliest date for regular

retirement 0.28 percentage points have to be deducted from the percentage of 80% (i.e. 3.36 percentage points for a year); in factual terms, this corresponds to a pension reduction of 4.2% for a year). To calculate the deduction percentage, the fictitious earliest possible retirement date has

to be determined first. The deduction is limited to 18 percentage points.

23% of all new retirees who worked as civil servants in the federal public service retire on account of permanent inability to fulfil their duties.

6.4. Disability pensions

After suffering from occupational accidents, accidents on the way to work (commuter traffic) and occupational diseases, there is an entitlement to a disability pension under the accident insurance scheme, if the assessed reduced capacity to gainfully work amounts to at least 20% and continues for more than 3 months. Pupils and students impaired after an accident connected with school or university attendance are also entitled to a disability pension.

A disability pension may be received in addition to a pension (e.g. invalidity pension) or income from gainful employment.

In the event that the reduced capacity to gainfully work is as high as 100%, the pension amounts to two thirds of the income earned during the year before disability set in (full pension level); if the earning capacity is reduced by 20% to 99%, the benefit is calculated on a proportional basis. Severely disabled persons (earning capacity reduced by 50% and over) receive a supplement of 20% or 50% of the pension respectively (the latter percentage applying to a reduction of earning capacity by 70% and over).

Every year, about 4% of workers have an accident at work or while commuting to work, leading to at least 3 days of sick leave. In 2008, gainfully employed persons had a total of 140,000 occupational accidents (including accidents on the way to work), out of which 174 were fatal. Last year, the number of occupational accidents has increased significantly.

In 2008, the accident insurance scheme acknowledged 1,900 cases of occupational diseases, primarily hearing impairments caused by noise and skin conditions.

4% of annual occupational accidents, accidents while commuting to work and occupational diseases led to entitlements to a permanent pension from the accident insurance scheme.

By the end of 2009, 89,000 persons received a disability pension and 17,000 a survivors' pension from the accident insurance scheme.

At the end of 2009, the disability pension amount was an average EUR 330 a month. The average level is low, because of the large number of partial pensions paid in case of an earning capacity reduced by up to 49%. On average, these partial pensions amounted to EUR 250 in 2009. Full pensions (100%-reduction of capacity to work gainfully) account for less than 3% of the total. The average pension amount paid to this group of persons is EUR 1,610.

In 2010, the uniform accident insurance contribution is 1.4% of insurable earnings; it is exclusively paid by employers and represents a kind of third-party liability insurance for employers. Self-employed persons, who do not work in farming, pay an annual lump sum.

The additional employers' contributions for workers who work night shifts and/or so manual labour (16,300 persons) are preventive and compensatory in nature. In these cases, a further 2% of the gross wages have to be paid to the pension insurance scheme as a special contribution. It serves to finance a special early retirement pension (special retirement pension for men above the age of 57, received by 1,500 persons). The average special retirement pension was EUR 1,810 per month at the end of 2009.

The accident insurance institution makes an important contribution to the rehabilitation of persons, who are affected by occupational accidents or diseases. Measures serve to cure and re-integrate those concerned into working life. In 2008, EUR 368 million and EUR 77 million respectively were spent on these purposes.

6.5. Social indemnification acts

All acts on social indemnification include extensive measures to provide for the persons concerned in case of invalidity. Due to the age structure of recipients, cash income support for victims of war and victim welfare are primarily to be seen as measures of retirement income provision¹⁴; the indemnification systems under the act on Army Victims' Compensation, the Crime Victims' Act and the Act on Indemnification for Vaccination-induced Disabilities mainly concern persons of working age.

These three laws govern compensation to persons performing their military service, victims of crime and persons impaired by vaccinations. Moreover, civilians injured by arms, vehicles or military action of the Austrian federal army are entitled to support under the Army Victims' Compensation Act. Apart from monetary assistance, these schemes offer occupational rehabilitation (e.g. training, re-training, and contributions towards wage costs) and social rehabilitation (e.g. allowances for adaptations, costs of integration measures).

The disability pension provided under the Army Victims' Compensation Act ranges from EUR 86 to EUR 2,141 per month. In analogy to income support provision for victims of war, additional recurring benefits are available (means-tested

supplements, care supplements, supplements for the blind, contributions towards the costs incurred due to special dietary requirements). The number of persons entitled to this type of support was 1,800 in early 2010. Total financial expenditure for 2009 was at EUR 10.5 million.

Crime victims receive governmental assistance if they sustained bodily injury or health impairment due to a premeditated crime (liable to a minimum punishment of 6 months of imprisonment) or as innocent bystanders, and their earning capacity is reduced for this reason. The Crime Victims' Act provides for loss of earnings or maintenance of up to EUR 3,430 per month as well as lump sum compensation for immaterial damage, care supplements and supplements for the blind in analogy to the Army Victims' Compensation Act. At the beginning of 2010, 140 persons received recurring benefits under this title; budgetary funds amounted to EUR 2.9 million.

Under the Act on Indemnification for Vaccination-Induced Disabilities, persons are entitled to compensation in case they were vaccinated as prescribed or recommended by law and sustained health impairment. At the beginning of 2010, 92 persons were entitled to this kind of support. Total financial expenditure was at EUR 3.1 million.

14. Hence, both these systems are described in Chapter 4.

CHAPTER 7

BENEFITS IN CASE OF UNEMPLOYMENT

7.1.	Overview	46
7.2.	Conditions of eligibility for unemployment benefits and unemployment assistance	46
7.3.	Benefit levels	48
7.4.	Cash benefits under the unemployment insurance for persons in employment	49
7.5.	Social protection in case of employer's insolvency	50

7.1. Overview

In the event of unemployment, the most important cash benefits available are unemployment benefits and emergency unemployment assistance from the unemployment insurance scheme, wage compensation from the bankruptcy contingency fund, as well as the needs-based minimum benefit system (hitherto social assistance) for persons in need, who are not entitled to cash benefits from the unemployment insurance scheme, or whose level of entitlement is too low.

Entitlements under labour law in respect of unemployment and the termination of employment contracts (severance pay, employee in-come provision, dismissal indemnity etc.) are described in Chapter 12.

The part-time benefit for older workers is designed for older persons, who are gainfully employed to prevent unemployment in this age group.

The main players in active labour market policy-making are the Public Employment Service (Arbeitsmarktservice – AMS) and the Federal

Ministry of Labour, Social Affairs and Consumer Protection. The Laender take part in regional labour-market programmes.

According to the ESSOSS definitions, EUR 4.8 billion were spent on unemployment benefits and active labour-market policy measures and services as well as for the Public Employment Service AMS in 2009. This is the equivalent to 1.7% of the GDP.

In 2009, Austria's unemployment rate was 4.8% (according to the standard EU calculation method) and thus clearly below the EU average of 8.9%. The average for the year 2009, in absolute figures, was 260,300. In the course of 2009, a total of 852,200 persons were unemployed for at least one day. The average concluded duration of unemployment was 93 days in 2009 – six days more than in 2008.

The average figure for the year 2009 of those, who received unemployment benefit, was 146,300 whilst 91,200 persons were on emergency unemployment assistance.

7.2. Conditions of eligibility for unemployment benefits and emergency unemployment assistance

The majority of persons gainfully employed in Austria are insured in the unemployment insurance scheme on a mandatory basis. Part-timers, earning less than EUR 366.33 a month (level for the year 2010), civil servants and most self-employed persons are exempted from unemployment insurance. Self-employed persons have the possibility of voluntary unemployment insurance under certain conditions.

Unemployment benefit and emergency unemployment assistance are the most important cash benefits paid by the unemployment insurance scheme. Unemployment benefit is paid for a limited period; emergency unemployment assistance is available after the end of this period without any limit in time but contingent on certain criteria (indigence, family income). Unemployment insurance contains elements of minimum income; however no minimum benefit is guaranteed (increased net-replacement rate through supple-

mentary amount). There is an upper threshold with regard to the amount of cash benefits.

Unemployed persons must

- 1) have been insured for a minimum period,
- 2) be capable of working and
- 3) be willing to work in a job they can reasonably be expected to work in.

Minimum insured periods

Entitlement to benefits from the unemployment insurance scheme requires a certain minimum period of insurance:

- A minimum of 52 insurance weeks within a timeframe of 24 months prior to application is required for first-time claims.
- For young persons under 25 years of age, employment for at least 26 weeks within a timeframe of 12 months prior to application is sufficient.

- Persons who have received benefits from the unemployment insurance scheme at some point of time must have been insured under the unemployment insurance scheme for 28 weeks in the previous 12 months or for 52 weeks in the previous 24 months (which usually means that they were in employment) to be eligible again.

Working capability

The unemployment insurance scheme is only in charge of persons capable of working. In the event of invalidity or occupational disability, benefits from the pension or health insurance scheme are available, or support should be provided by the family or social assistance.

During pension applications by unemployed persons (usually to determine if the criteria for an invalidity pension have been met), the unemployed person is eligible for an advance on future pensions from the unemployment insurance scheme. This advance is either granted in the form of unemployment benefit or emergency unemployment assistance and has an upper threshold that equals the average amount of the relevant pension benefit. If, at the end of proceedings, a pension is granted, the Public Employment Service will be reimbursed out of the subsequent pension benefits on the advance on pensions from the unemployment insurance scheme.

In 2009, an average 19,700 received such an advance on pensions.

Reasonable employment

The unemployed person must be willing to accept reasonable employment or undergo further training or re-training. A job is considered to be reasonable if it is a suitable employment and complies with the mandatory provisions and collective agreements. The location of the place of work must be within a reasonable reach or an appropriate accommodation must be available. The job location and working hours must not collide with mandatory duties of care (for children).

During the first 100 days in which unemployment benefits are received by new claimants, the principle of occupational protection applies, i.e. jobs offered must not have a significantly negative effect on future employability in the original occupation.

During the first 120 days, in which unemployment benefits are received by new claimants, the level of income from a new job must be equivalent to 80% of the previous pay (up to the maximum assessment basis); and during the remaining period, during which unemployment benefits are received, it has to be 75%. Special regulation applies to persons who worked part-time.

Persons, who are long-term unemployed and on emergency unemployment assistance (after the period of eligibility for unemployment benefit has expired) are reasonably expected to work in jobs with lower pay, provided that such lower pay is at least equivalent to the minimum wage under the respective collective agreement.

Maximum period of entitlement to unemployment benefits

This period depends on insured periods within mandatory framework time limits (which can be extended under certain conditions) and the age of the unemployed person when he/she became jobless. It ranges from a minimum of 20 weeks to one year:

- 20 weeks in case of fulfilment of the minimum insurance period,
- 30 weeks if the person was insured for 3 years in the previous 5 years,
- 39 weeks if the person was insured for 6 years in the previous 10 years and if he/she is 40 years and over,
- 52 weeks if the person was insured for 9 years in the previous 15 years and if he/she is 50 years and over.

In the event that the beneficiary takes part in labour-market measures, offered by the Public Employment Service (training courses, measures for re-integration), the period of entitlement is extended. If the beneficiary participates in a labour foundation, the period of entitlement may be extended by up to 3 years, and in special cases (persons who have undergone longer training periods or jobless persons who are over 50 years of age); it may be extended to up to 4 years.

Emergency unemployment assistance is a benefit for the long-term unemployed and is linked to indigence. It is granted after the period of entitlement to unemployment benefit has ended and is not subject to any time limit (the maximum period is up until the recipient is eligible

for a pension). Beneficiaries have to re-apply for emergency unemployment assistance every 52 weeks.

Sanctions

If an unemployed person does not accept a reasonable job offer, the payment of benefits from the unemployment insurance scheme is suspended for as long as the job is refused, or in any event, for six weeks. This period of suspension may last for up to eight weeks in case of repeated refusals. Duration of benefits' payment is shortened accordingly (e.g. 24 weeks instead of 30 weeks). Suspension can be partially or fully revoked, in case the person concerned has accepted another job offer or similar circumstances apply.

In the case that a person loses the job due to his/her own fault, or terminates work voluntarily, no entitlement to benefits under the unemployment insurance scheme shall apply for the first subsequent 4 weeks. In this case, the duration of the benefits' payment is not shortened, but postponed. If certain circumstances apply, the sanction can be partially or fully revoked.

Additional income

Unemployed persons may earn an additional income up to the marginal earnings threshold (EUR 366.33 in the year 2010) without losing

their entitlement to a benefit from the unemployment insurance scheme.

If the additional income from temporary employment (duration less than four weeks) exceeds the threshold, 90% of the net income above the threshold is set off against the unemployment benefit or assistance.

Protection under social insurance law

Recipients of benefits from the unemployment insurance scheme are covered by health insurance. Moreover, periods during which such benefits are received, are credited as insured periods under the pension insurance system (or fictitious qualifying periods for persons who were born before 1 January 1955 and therefore are not affected by pension harmonisation).

Periods of unemployment are also credited as insured periods under the pension insurance system for long-term unemployed persons, who are not entitled to emergency unemployment assistance due to the income level of his/her spouse. This, however, will only apply for the case that the long-term unemployed person is available to job placing by the Public Employment Service like any other person receiving emergency unemployment assistance. These persons are covered by health insurance, even if they are not entitled to contribution-free co-insurance.

7.3. Benefit levels

As the unemployment benefit is an insurance benefit, levels depend on previous income from gainful employment. The unemployment benefit is composed of a basic amount, as well as – where applicable – family supplements and/or supplements for recipients of very low benefits.

The basic amount is 55% of the average net income of the calendar year preceding the job loss (if the application was filed in the second half of the year) or of the calendar year before that (if the application was filed in the first half of the year).

If the unemployed person has to support family members, he/she is entitled to receive a family supplement amounting to EUR 0.97 (per day) for every dependant, in addition to either unemployment benefit or emergency unemployment assistance.

If the unemployment benefit per day calculated on this basis is lower than EUR 26.13 (2010 – this amount is equivalent to one thirtieth of the equalisation supplement reference rate under the pension insurance scheme for single pensioners), a supplement up to a net replacement rate of 60% of the previous net income is due. The ceiling is 80%, if family supplements apply. However, the unemployment benefit plus supplement must not exceed the equalisation supplement reference rate.

In 2009, the average monthly unemployment benefit was EUR 818 (men: EUR 882, women: EUR 718). The difference in benefit levels reflects gender-related income differences and different work biographies.

Emergency unemployment assistance is 92% (in case the benefit is above the equalisation supplement reference rate of the pension insurance scheme) or and 95% of the unemployment benefit. After these 6 months fixed ceilings apply to persons with short insurance periods. The maximum level varies according to the period during which unemployment benefit was received:

- 20 weeks on unemployment benefit: emergency unemployment assistance up to a maximum level of EUR 26.13 per day.
- 30 weeks on unemployment benefit: emergency unemployment assistance up to a maximum level of EUR 30.47 per day (levels of 2010).

As emergency unemployment assistance is only granted in case of indigence, the income of the spouse or life partner is taken into account. Up to EUR 495 per month (2010), the spouse's/life partner's income are not taken into consideration in this context. This exemption of earnings is raised by EUR 247.50 (2010) per month for each dependent person the spouse/life partner has to support. Two options exist for persons, who lost entitlement to unemployment benefits for a period of 52 weeks: for long-term unemployed persons over 50 years of age, the earnings exemptions for family members living in the same household taken into account are 100% higher than for younger unemployed persons, and this

percentage is 200% for long-term unemployed persons over 55 years of age.

From autumn 2010 onwards, upon introduction of the needs-based minimum benefit system, emergency unemployment assistance will not only be calculated on the basis of the basic amount of the unemployment benefit, but also under consideration of a supplementary amount, if applicable. This will safeguard that in case of an existing income of the beneficiary's spouse, income-testing will be conducted only to such an extent as to preserve a minimum level of income – similar to the equalisation supplement reference rate for married couples (in 2010: EUR 1,116) – including additional benefits for children, if applicable.

In 2009, the average unemployment assistance level paid was EUR 611, which is about 25% lower than the average unemployment benefit.

Average monthly benefits from unemployment insurance in 2009 (in EUR)

	Men	Women	Total
Unemployment benefit	882	718	818
Emergency unemployment assistance	666	529	611

Source: BMASK, Public Employment Service (AMS) – data warehouse (DWH); arithmetic mean

7.4. Cash benefits under the unemployment insurance for persons in employment

Part-time benefit for older workers

This benefit seeks to facilitate keeping older workers in employment. Older workers may agree with their employers to reduce their working hours; they will then be eligible for the part-time benefit, which compensates for half the earnings lost due to reduced working hours. Working hours have to be reduced by 40% to 60%. The specific arrangements in the context of reduced working hours are left to the parties concerned.

The compensatory wage increases have to be at least 50% of the difference between the part-time benefit payment and the decreased wages due to reduced working time. Employers continue

to pay social security contributions on the basis of the hours the employee worked previously.

Furthermore, employers are entitled to be partially reimbursed for the costs by the Public Employment Service. This refers to compensatory wage increases and subsequent additional social insurance contributions. In case of continuous reduction of working time, reimbursement is at 90%. If a so-called 'block time arrangement' was entered into, reimbursement is at 55%. The upper threshold of reimbursement is fixed by the ceiling on insurable earnings.

In the years 2009 and 2010, women are eligible for the part-time benefit for older workers starting

from the age of 53 years, and men from the age of 58 years; entitlement ends when the requirements for a retirement pension are met at the latest.

The prerequisite for this arrangement is that the older worker has been employed in a job with mandatory unemployment insurance for a total of 15 years during the previous 25 years. From 2011 onwards, the respective age for eligibility applicable is being raised by half a year every year in connection with the increase of the retirement age under the pension reform.

In 2009, an average 19,100 older workers were on the part-time benefit over the year (9,800 women, 9,300 men). Expenditure for this benefit was at EUR 290 million in 2009.

Further-training benefit during educational leave

After at least 6 months of employment, workers may take educational leave for up to one year (see also Chapter 12). Employees have to apply for the further-training benefit at the Public Employment Service. This benefit will be paid out, in case the minimum period of insurance equals the period necessary to be entitled to the unemployment benefit. Amounts are equal and may not be less than EUR 14.53 per day.

In 2009, an average of 5,000 persons (2,100 women, 2,900 men) availed themselves of this opportunity over the year. Net-expenditure amounted to approx. EUR 52 million.

7.5. Social protection in case of employer's insolvency

Compensation from the bankruptcy contingency fund serves to protect (former) workers from the loss of income and the delays in the payment of legitimate pay claims if employers become insolvent.

Employers pay 0.55% of the gross payroll total into a fund, which settles the claims of workers concerned. Apart from employers' contributions, this cash benefit is also financed from money paid into the bankruptcy contingency fund from insolvency proceedings.

Entitlements from the bankruptcy contingency fund include current wages, severance pay, holiday and dismissal indemnities, claims for damages and company pensions. Eligible outstanding claims are usually restricted to a maximum of six months prior to the institution of bankruptcy proceedings and three months past that date.

In 2009, 36,200 employees were affected by insolvencies. The total amount encompassing wage compensations and contributions paid by the fund to other social security schemes was EUR 380 million in 2009.

CHAPTER 8

BENEFITS IN CASE OF UNEMPLOYMENT

8.1.	Overview	52
8.2.	Conditions for eligibility for health insurance benefits	52
8.3.	Services from mandatory health insurance	52
8.4.	Cash benefits in case of illness	54

8.1. Overview

Upon introduction of the needs-based minimum benefit system (previously social assistance) recipients are under the umbrella of mandatory public health insurance.

Public expenditure for health care (according to the ESSOSS methodology) was approx. EUR 20 billion in 2008, which corresponds to approx. 7% of GDP or 26% of social expenditure. The greater part of spending goes to out-patient and in-patient treatment (83%). 18% are expended on income substitutes from employers and health insurance in case of temporary incapacity to work due to illness.

99% of the population are covered by the

mandatory health insurance schemes (see Chapter 11).

Irrespective of the level of health-insurance contribution they pay, every person insured is entitled to medical care¹⁵ provided by a physician in a private practice or in a hospital.

In case of temporary incapacity to work, employees are first entitled to continued pay from their employers (for between 6 and 12 weeks), which is followed by an entitlement to sickness benefit (see Chapter 12). 8 weeks prior to and 8 weeks after the birth of a child, mothers normally receive maternity allowance equivalent to their current income (see Chapter 9).

8.2. Conditions for eligibility for health insurance benefits

Mandatory health insurance is linked to gainful employment, but goes far beyond the scope of insurance for employed persons, since, in addition to the parties directly insured; it also covers the members of their families.

About 25% of the persons covered by the mandatory health insurance system are co-insured family members, who do not pay their own contributions (e.g. children, housewives/house-husbands). An additional contribution of 3.4% of gross income has to be paid for co-insured spouses or life partners. However, this roughly concerns only 25,000 persons. Most co-insured persons (94%) are exempted from

contributions. No contributions are due from persons, who devote themselves to child care or who have done so for at least 4 years. This applies especially to persons in need of special social protection. Under the Third Social Law Amendment Act 2009 (Sozialrechtsänderungsgesetz – SRÄG) co-insurance, exempt from contribution, applies to family members taking care of persons in need of long-term care, and persons who receive long-term care benefits (care allowance level 3 and higher).

Non-insured persons may join voluntary self-insurance. At the end of 2009, 130,000 persons were voluntarily self-insured.

8.3. Services from mandatory health insurance

Most health insurance benefits are services, provided by health-insurance run facilities (out-patient clinics) or – primarily – institutions (hospitals) or physicians in private practices under contractual relations. If other physicians or institutions are consulted, (part of) the costs are refunded. Persons covered by health insurance are – in principle – free to choose their physicians. If they select a physician, who does not have a contract with the health insurance fund, they

have to finance the treatment in advance. Upon application, up to 80% of the amount, which the health insurance would have paid to one of its contract doctors for the treatment, will be refunded in arrears.

Medical treatment

Presenting their 'e-card', persons covered by health insurance are entitled to treatment by a contract physician. The e-card is a chip card,

15. Nursing care – with the exception of medical home care, which is a health-insurance benefit – is a matter of the long-term care provision scheme (see Chapter 10)

which serves as evidence that the patient is entitled to treatment and for the settlement of the doctor's fee by the health insurance fund in charge. A management fee of EUR 10 per year, which is collected from employers, has to be paid for the e-card. Pensioners, children, persons with a low income and persons with communicable diseases are exempt from the management fee.

Self-employed persons and civil servants have to pay a contribution towards the cost of medical treatment of 20%; farmers pay a lump-sum contribution of EUR 8.27 per quarter (2010).

Farmers do not pay a management fee for their e-card. Persons who are gainfully employed in the private sector and pensioners do not have to pay contributions towards costs.

Some benefits, in particular in dental treatment, such as tooth caps or dental bridges, are not covered by health insurance. Health insurance funds only pay a small contribution towards costs to the insured parties. In these cases, indigent persons receive money from the support fund of the health insurance institutions.

Insured parties are entitled to hospital care for unlimited periods of time. The health insurance institutions have entered into contracts with all the public and most of the private hospitals. The contribution toward costs for in-patient treatment in a hospital range from EUR 7 – 17.30 per day (2010), for the co-insured next of kin the contribution is EUR 14.80 – 17 per day. These contributions are to be paid for a maximum of 28 days per calendar year. Indigent persons are exempt from such contributions. Hospitalisation on the occasion of maternity is exempt from contributions.

Medication

If medical treatment requires medication, a fixed prescription fee of EUR 5 (2010) has to be paid for each medicament. No prescription fee is due for the treatment of communicable diseases. Furthermore, persons with a low income and persons, who can prove that their expenditure on medication is above average due to a chronic illness or infirmity, are exempted from the prescription fee upon application.

A ceiling on prescription fees applies since 1 January 2008. Persons, who already paid fees to the equivalent of 2% of their annual net-income, are automatically exempt from further prescription fees' payments for the rest of the

remaining year. In this case, an application for exemption is not necessary.

For persons whose annual net-income is below the single reference rate's twelve-fold of the equalisation supplement (EUR 783.99 per month in 2010), the prescription fee's ceiling is being calculated according to the twelve-fold value of this reference rate.

To control the cost of medication and for the purpose of quality management, the Federation of Austrian Social Insurance Institutions has issued a 'Reimbursement Code', which lists all pharmaceuticals to be obtained free of charge or on certain conditions at the expense of the health insurance institution. Some of these medicaments are subject to the approval from the medical superintendent.

Therapeutic appliances and therapeutic aids

Therapeutic appliances and aids include spectacles, crutches, wheelchairs etc. Gainfully employed persons have to pay a contribution of 10% or a minimum of EUR 27.40 (2010) to the costs, the contribution towards costs for self-employed persons is 20%. The deductible ('excess') for visual aids is EUR 82.20 (2010). There is a ceiling on costs for therapeutic appliances covered by health insurance. In case of indigence, children with disabilities or visual aids for children from age 15 to 27, the contributions towards costs are lower.

Psychosocial care and treatment by paramedical professionals

Treatment by paramedical professionals, e.g. physiotherapists, ergotherapists, psychotherapists and clinical psychologists are as a rule subject to the principle of services. Following a stay in hospital, physiotherapy and speech therapy is granted by the health insurance institution. The health insurance institutions pay a contribution towards costs for psychotherapy. Further important services are measures for primary and secondary preventive care as well as follow-up treatment (cures, rehabilitation).

8.4. Cash benefits in case of illness

The most important income substitutes in case of illness are the continued payment of wages by the employer, which is governed under labour law (see Chapter 12), and the subsequent sickness benefits paid by the health insurance institutions. After the entitlement to continued pay has ended, workers are entitled to sickness benefits under the social insurance scheme. If the illness continues after the period of the entitlement to sickness benefits is over, the person concerned is entitled to an invalidity pension, provided that the conditions for eligibility are met. (See Chapter 6)

Depending on the insurance periods, sickness benefits may be received for a maximum period ranging from 6 months up to one year. The minimum level of the monthly sickness benefit is 50% of the previous gross pay, including Christmas and holiday pay, or 60% as from the 43rd day of incapacity to work.

Self-employed persons in the trades and crafts will only receive cash benefits for up to one year if they effected an insurance for that purpose. Farmers may be granted temporary help in the form of services or a cash benefit for the period of incapacity to work.

CHAPTER 9

FAMILY BENEFITS

9.1.	Overview	56
9.2.	Benefits from the Family Burden Equalisation Fund	58
9.3.	Family benefits under the health, pension and unemployment insurance schemes	62
9.4.	Means-tested cash benefits for families in case of indigence	63
9.5.	Tax credits for families	64

9.1. Overview

According to the ESSOSS methodology¹⁶, approximately EUR 8 billion¹⁷ of Austrian public spending was used for benefits for families¹⁸. This corresponds to approximately 2.8% of GDP. Family benefits are thus in a top position among EU member states.

In the category of family benefits, cash benefits and services, which are directly paid out to families, and further other benefits, relevant to families that are financed out of the equalisation fund for family allowances (altogether EUR 6 billion), prevail. Services for child-care facilities and other services for children and families are at EUR 1.3 billion.

The cash benefits are predominantly universal transfer payments (i.e. independent from gainful employment and income levels). These include family allowances, tax credits for children and childcare allowances.

In addition, there are insurance benefits dependent on employment and income (e.g. the maternity allowance directly prior to and after childbirth), as well as means-tested benefits. Tax credits play an important role in supporting families. Entitlements under labour law primarily serve a better balancing work and family life (see Chapter 12).

Family benefits in Austria

Cash benefits for families from the Family Burden Equalisation Fund	
Family allowance	Transfer payments to all families with children, irrespective of income or employment; varying according to age groups and number of children
Multiple-child supplement	Means-tested benefit for families with at least three children if family allowance is received for these children
Child-care benefit	Transfer benefit for child-care
Supplement/allowance to child-care benefit	For indigent parents
Advances on maintenance payments	The state pays advances on maintenance payments, the money is reclaimed from the person obliged to pay
Commuting grant for travelling between home and school/training location	lump sum payments
Cash benefits under the social and unemployment insurance scheme	
Family supplements under unemployment insurance	EUR 0.97 per day per person entitled to maintenance (for 2010)
Child supplement	Added to pensions (from retirement and accident schemes)
Maternity allowance	Insurance benefit for mothers; usually 8 weeks before and 8 weeks after childbirth
Child-care subsidy	Part of active labour-market policies

16. According to ESSOSS, family-related tax benefits, with the exception of the tax credit for children, are not considered social expenditures; this also goes for child-raising periods creditable to pension insurance (Note: In 2008, out of the EUR 6 billion benefit from the Family Burden Equalisation Fund, EUR 555.8 million go to pension insurance contributions and child-raising periods. In 2008, 50% were paid out of the Family Burden Equalisation Fund, 50% out of the federal government's budget), health insurance for family members, and medical checkups for the mother-child medical card. Free transport to school and free school books are not subsumed under social expenditure but defined as educational benefits.

17. Chart 2.7., Function family/children, expenditure in million EUR; ESSOSS database www.bmask.gv.at

18. According to ESSOSS, family-related tax benefits, with the exception of the tax credit for children, are not considered social expenditures; this also goes for child-raising periods creditable to pension insurance (Note: In 2008, out of the EUR 6 billion benefit from the Family Burden Equalisation Fund, EUR 555.8 million go to pension insurance contributions and child-raising periods. In 2008, 50% were paid out of the Family Burden Equalisation Fund, 50% out of the federal government's budget), health insurance for family members, and medical checkups for the mother-child medical card. Free transport to school and free school books are not subsumed under social expenditure but defined as educational benefits.

Family benefits in Austria (continued)

Benefits in case of indigence	
Benefits in case of indigence	Part of means-tested minimum income (social assistance until 2010), housing assistance and pension insurance
Tax benefits	
Tax credit for children	Uniform tax allowance per child to take the costs of raising children into account
Single earner's tax credit and Single parent tax credit	For spouses/life partners in case the income of the spouse/partner is not above a threshold per calendar year
Tax credit for maintenance/Child support	Monthly tax credit for maintenance of children who do not live in the same household and for whom mandatory maintenance is paid
Tax deductibility of child-care costs	Up to an amount of EUR 2,300 per year and child and until the child is 10-years-old (2010)
Tax exempt amount for children	EUR 220 EUR annually per child (2010)
Child-care benefits paid by the employer	Up to EUR 500 per year for caring for children under the age of 10
Other benefits	
Crediting of child-raising periods under the pension insurance	Until the child turns 4
Co-insurance under health insurance	for family members who are not subject to compulsory insurance (largely non-contributory)
Kindergartens, crèches and after-school day-care centers	For free for certain age groups or subject to cost contribution
Mother-child medical card	before and after childbirth
Free travel to school/training location	Deductible amount of EUR 19.60 (2010)
School books	Deductible amount of EUR 10
Parental education	Parental education offered by non-profit institutions
Family mediation	mediation in case of conflicts during separation or divorce
Counselling of parents/children	in case of separation and divorce
Entitlements and benefits under labour law (see Chapter 12)	
Maternity protection	Prohibition of various kinds of work and working hours for expectant mothers; Prohibition to employ mothers eight weeks before and after childbirth
Protection against dismissal (with fault/no-fault)	Dismissal of pregnant women and mothers after childbirth or during parental leave shall only be possible in the context of specific reasons
Parental leave	Entitlement to non-paid for leave until the child has reached the age of 2
Parental part-time work	Entitlement to part-time work until the child has reached the age of 7 in enterprises with more than 20 employees
Family hospice leave	Care of dying relatives or seriously ill children; Employees remain insured under the health care and pension insurance scheme
Family counselling centres etc.	

Source: BMASK 2010

9.2. Benefits from the Family Burden Equalisation Fund

The Family Burden Equalisation Fund (Familienlastenausgleichsfonds, FLAF) is the most important instrument of support to families in Austria. About three quarters of financing come from employers' contributions based on wages and salaries. These correspond to 4.5% of the payroll total. The balance is covered mainly from the general tax revenue.

Accounting for a share of 55%, family allowances represent the largest part of family-related benefits financed via the FLAF. About 19% of FLAF spending goes to child-care allowances. Further important family-policy measures of the FLAF include services for families (such as school books and transport to school with small cost retention for families).

Expenditure of the Family Burden Equalisation Fund, 2009, in million EUR

Family allowances	3,440
Child-care allowance	979
Contributions and refunds for benefits paid to social insurance and other institutions ¹	996
Advances on maintenance payments	105
Free travels to school/training location and commuting grants for pupils and apprentices	397
School books	103
Other expenses (such as supplement to child-care benefit, family counselling centres, family hardship compensation, mediation, parental education, counselling of children and families in case of separation)	132
Total expenditure	6,152

¹ Transfers to other social protection schemes and family allowance self-payment regime

Source: BMGFJ – Federal Ministry for Health, Family and Youth

Family allowance

There is a general entitlement for family allowance for every minor child. For children, who are of age but have not completed their training yet, family allowance is due until the child turns 26 or, in exceptional cases, 27. There is no age limit for children with severe disabilities who are unable to work. The entitlement to family allowance expires when a child reaches the age of 18 and earns his/her own income if such income amounts to more than EUR 9,000 per year.

Family allowance is paid to Austrian nationals with permanent or habitual residence in Austria for children who permanently reside in the country. There are special rules for EU-, EEA-, and Swiss citizens (since 1 May 2010, primarily contained in Regulation (EEC) no. 883/2004 and Implementing Regulation (EEC) no. 987/2009). With regard to states where the aforementioned Regulations shall enter into force at a later point

in time and for cases in the process of phasing out, Regulations (EEC) no. 1408/71 and no. 574/72) apply. In accordance with the 'principle of the employing country', the country in which a person is employed is in charge of paying family benefits, even if the child has his/her permanent residence in a different member state.

All other foreign nationals are entitled to family allowance for children living in Austria, if their stay in Austria is legal and not only temporary in character. Furthermore, recognised refugees and subsidiary protected persons (in employment and not receiving basic services for refugees) are entitled to family allowance.

Family allowance is paid to the person whose household the child belongs to. If the parents live in a joint household, it is due to the parent primarily managing the household; the law assumes that this is the mother, unless the contrary is proven. The person primarily cove-

ring the maintenance costs of the child has a subsidiary entitlement. Children themselves are only entitled to family allowance if they are orphans or if their parents do not primarily cover their maintenance; there is no entitlement for children who live in youth centres at the expense of youth welfare authorities or social assistance.

Family allowance varies according to the age and the number of children in a family. In 2010, the amount for children up to 3 years of age is EUR 105.4 per month, for children up to 10 EUR 112.7, up to 19 EUR 130.9 and for children under 26 (27) years it amounts to EUR 152.7. If family allowance is received for two children, the total amount paid out increases by EUR 12.8 per month, for three children the amount increases by EUR 47.8, for four children by EUR 97.8 and for every further child by EUR 50 per month. An additional amount of EUR 138.3 per month is paid for children with severe disabilities. The family allowance is tax-free.

Since 2008, the double of the family allowance's amount is being paid out for the month of September (basic amount, supplements according to age, allowance for two or more children and increased family allowance).

To counteract the special risk of poverty of families with several children, an additional multiple-child bonus is granted to families with three or more children. The multiple-child bonus of EUR 36.4 is granted for the third and each further child for whom family allowance is received, who lives permanently in Austria (or in the EU), provided that the taxable family income is not higher than EUR 55,000. The multiple-child bonus has to be claimed in the course of the annual tax assessment.

In addition to the family allowance, tax credits for children are paid out (see Chapter 9.5.)

As the tax credit for children and family allowance are paid out directly, the two support payments are added up in the following table to reflect their overall effect:

Case examples: monthly family allowance including tax credit for children* according to age of child and number of children in a household, 2010

Family with child (children) at the age of	1 child 5-years-old	2 children: 1- and 2-years-old	3 Children: 9-, 13-, 16-years-old	4 children: 1-, 6-, 10- and 20-years-old
Family allowance	112.7	210.8	374.5	501.7
Tax credit for children	58.4	116.8	175.2	233.6
Family allowance from up to 2 children	-	12.8	47.8	97.8
TOTAL	171.1	340.4	597.5	833.1

* the double of the family allowance's amount is being paid out for the month of September (basic amount, supplements according to age, allowance for two or more children and increased family allowance)

Calculation: BMASK, based on the family allowance calculator of the Chamber of Labour.

In 2008, family allowance was paid for 1.82 million children. The age structure was as follows: 223,000 children were under the age of 3, 556,000 between 4 and 10, 827,000 between 11 and 19 and 216,000 over 19. The supplement for severe disabilities was paid out for 70,000 children. About 10% of the children were not Austrian nationals.

Child-care allowance (Kinderbetreuungsgeld – KBG)

As per 1 January 2010, there have been major changes with regard to the child-care allowance;

the objectives are i.e. improving the balancing between work and family life, enhancing the participation of fathers in bringing-up children and enabling an additional adequate income for parents who earn proportionately more money.

The three established models of child-care allowance remain in force and child-care allowance options' have been enhanced by means of two additional models, namely income tested child-care allowance and a lump sum for a short period, which will amount to EUR 1,000 per month. In addition, there have been adap-

tations regarding the exemption limit and new special provisions exist regarding single parents. Also, the child-care allowance's supplement has been remodelled; and the minimum duration of child-care allowance and minimum duration of parental leave under labour law have been reduced from 3 to 2 months. Last but not least, multiple-births have been taken under stronger consideration.

Parents may choose from two different systems, which have five different options of benefits.

4 options are available under the lump sum system:

Option 30 plus 6 (EUR 436 per month)

One parent is entitled to child-care allowance for a total of 30 months. In case the second parent takes over, the allowance can be received for another 6 months.

Option 20 plus 4 (EUR 624 per month)

One parent is entitled to child-care allowance for a total of 20 months. In case the second parent takes over, the allowance can be received for another 4 months.

Option 15 plus 3 (EUR 800 per month)

One parent is entitled to child-care allowance for a total of 15 months. In case the second parent

takes over, the allowance can be received for another 3 months.

Option 12 plus 2 (approximately EUR 1,000 per month)

One parent is entitled to child-care allowance for a total of 12 months. In case the second parent takes over, the allowance can be received for another 2 months.

With regard to the income replacement system, one parent may continue to receive 80% of the last net-income, or the maximum of EUR 2,000 per month, for a total of 12 months. If both parents alternate in receiving child-care allowance, the period of entitlement will last until the 14th month of life of the child.

All 5 options offer the possibility for parents to alternate in receiving the benefit twice; however one block of time has to last for at least 2 months.

In case of certain hardships (such as death, stay in a medical care or nursing institution, cases of domestic violence brought before court or investigated by other authorities, stay in a women's shelter, imprisonment), every option mentioned above can be prolonged for up to 2 months beyond the fixed maximum period to which one parent is entitled, without parents alternating in receiving of the allowance.

Overview of the 5 options of the child-care allowance

	Income tested	12+2 months	15+3 months	20+4 months	30+6 months
Amount of child-care allowance in EUR	80% of the last net-income, max. EUR 2,000	1,000	800	624	436
Possibility of additional income	EUR 5,800 per year, equals 14 times the marginal income threshold	60% of earnings in a calendar year before birth, child-care allowance not included; min. EUR 16,200			
Max. of benefit duration for one parent	Up to 12 months	Up to 12 months	Up to 15 months	Up to 20 months	Up to 30 months
Max. of benefit duration for both parents	Up to 14 months	Up to 14 months	Up to 18 months	Up to 24 months	Up to 36 months
Multiple-child supplement per child and month	none	500	400	312	218

Source: BMWFJ

Furthermore, a single parent, who filed an application for a decision on the claims of maintenance, but does not receive the maintenance payments yet, is entitled to additional two months of child-care allowance. The single parent's maximum net-income must not be higher than EUR 1,200 per month.

Households with a low income are entitled to an increase of the child-care allowance by EUR 180. This applies to children born from 1 January 2010 onwards. Persons who receive one of the lump sum options are entitled to a supplement to the child-care allowance of approximately EUR 180 per month. In contrast to the former legislation, this kind of loan does not have to be repaid, unless the annual exemption limit of EUR 5,800 (which equals i.e. the marginal earnings threshold) is exceeded.

The earnings of the beneficiary's spouse may not exceed EUR 16,200. A supplement to the child-care allowance may be drawn to the maximum of 12 months.

In case of multiple-child births, the child-care allowance is raised in every option by 50% of the respective basic amount for the second and every further child (see chart page 60).

Entitlement to child-care allowance is independent of the parental leave under labour law (pursuant to maternity protection and paternity leave legislation). Recipients are covered by health insurance during the period in which they draw child-care allowance.

Entitlement to the new child-care allowance models applies to children born from 1 October 2009 onwards.

To be eligible for child-care allowance, persons have to fulfil the following requirements: entitlement to family allowance for the child, a common household with the child and 10 medical checkups under the mother-child medical card scheme (five examinations during pregnancy, five examinations of the child until the child is 14-months-old). Furthermore, the applicant's and child's centre of vital interests must be in Austria; non-Austrians must have appropriate residential permits. There are special rules for EU-, EEA-, and Swiss citizens (Since 1 May 2010, primarily contained in Regulation (EEC) no. 883/2004 and Implementing Regulation (EEC) no. 987/2009). With regard to states where the aforementioned regulations shall enter into force at a later point in

time and for cases in the process of phasing out, Regulations (EEC) no. 1408/71 and no. 574/72) apply. In accordance with the 'principle of the employing country', the country, in which a person is employed, is in charge of paying family benefits, even if the child has his/her permanent residence in a different member state.

With regard to the models of the lump sum system, the ceiling on additional income is EUR 16,200 (2010) per calendar year. Alternatively, the individual ceiling amounting to 60% of the last income would apply. For the income-dependent model, an additional income up to the marginal earnings threshold does apply.

In case the additional income ceiling is exceeded, child-care allowance has to be paid back. However, only the amount above the ceiling has to be returned.

At the end of December 2009, 156,000 persons received child-care allowance, 34,000 persons also received a supplement to the child-care allowance and 2,700 were additionally granted increased child-care allowance due to multiple births.

In 2009, total expenditure was at EUR 1.13 billion.

Advances on maintenance payments

If a parent, not living with his/her children in the same household, does not meet obligations to pay maintenance for minor children after a divorce or separation (in due time), advances on maintenance will be paid from the Family Burden Equalisation Fund (FLAF) upon application, provided a suitable execution proceeding has been opened. As a matter of principle, the amount paid will be equivalent to the maintenance due. The person obliged to pay maintenance has to repay the advances to the FLAF, which is thus able to recover about 47% of the money paid out.

In 2009, advances on maintenance payments were paid for 42,000; expenditure amounted to EUR 105 million.

Educational expenditure paid from the FLAF

The costs of commuting between home and school or training location for children and adolescents, who attend a public school or private school with public status in Austria as full-time pupils or train as apprentices, are paid for from public spending. The deductible ('excess')

per pupil or apprentice is EUR 19.60 per school year or year of apprenticeship. If no appropriate means of free transport are available, pupils and apprentices, who have to travel a distance of more than 2 km (one-way), are entitled to school travel cost benefits (pupils) or commuting grants (apprentices). If the pupils and apprentices stay at a secondary residence (boarding school, apprentices' home) away from their main residence during times of education and training, they are entitled to weekend home commuting grants.

The School Textbook Initiative, financed by the FLAF, serves to provide pupils with required educational aids free of charge. Every year more than 8 million school books were acquired for about 1.2 million pupils. Related expenditure amounted to roughly EUR 100 million. An average 7 school books at a price of EUR 83 were bought per child. Parents pay a deductible ('excess') of 10% for school books.

9.3. Family benefits under the health, pension and unemployment insurance schemes

Child care is a form of work necessary for society; therefore, it is also reflected in pension insurance: For children born as from 1 January 2005, up to 48 months per child are credited as pensionable contributory periods. The pensionable contributory periods for a child are reduced if another child is born within 48 months. In case of multiple-child births, up to 60 months are credited.

As in the case of periods where maternity allowance is drawn, the contribution time of child-raising periods is equal to periods of long insurance under manual labour, provided that periods of long insurance's eligibility and certain conditions are met.

The general assessment base for child-raising periods which is valorised by the revaluation coefficient is EUR 1,529 in 2010.

For persons, who are caretakers for their disabled children, there is an option of non-contributory self-insurance under the pension insurance, under condition that increased family allowance is being paid for the child. Also, persons who nurse a close relative have the opportunity of non-contributory self-insurance under pension insurance and voluntary continuation of insurance, in case the relative is receiving long-term care-benefit at level 3 at the minimum.

Child-care subsidy

In order to promote the gainful employment of parents, the Public Employment Service grants a child-care subsidy to cover part of child-care costs if the parents' income is low. Financing is provided by labour market policy. In 2009, a total

of 5,200 persons (5,100 women, 100 men) received child-care subsidy.

Children's supplement and family supplement

Recipients of benefits from unemployment or pension insurance are granted an additional fixed lump sum for each dependant: the family supplement (under unemployment insurance) at EUR 0.97 per day (2010) for each person entitled to the supplement or the children's supplement (under pension insurance) at EUR 29.07 (2010) per month.

Maternity allowance

Maternity allowance is a substitute for earnings paid to gainfully employed mothers by the health insurance schemes during the labour law governed protection period of 8 weeks prior to and 8 (up to a maximum of 12) weeks after birth. The maternity allowance level is 100% of the previous net pay (without ceiling). No minimum insurance period is required.

For women who are gainfully employed, the amount of maternity allowance is defined in accordance with the person's net-income of the last 3 months. Additionally, a supplement for special bonus payments is available. Since 1 January 2008, employees have been receiving income tested maternity allowances. Persons who have effected a voluntary self-insurance and are holding a marginal job (this regards self-insurance according to Art. 19a of the General Social Insurance Act) are entitled to a fixed amount of EUR 7.91 per day (2010). Persons who draw benefits under the Unemployment

Insurance Act (Arbeitslosenversicherungsgesetz – AIVG) are in principle entitled to maternity allowance amounting to 180% of the benefits drawn most recently. Women, who are entitled to benefits under the Child-care Allowance Act (Kinderbetreuungsgeldgesetz – KBGG) receive maternity allowance amounting to 180% of the basic amount (EUR 436).

In those cases, where income tested child-care allowance is being drawn with the period of protection starting directly after the pay out of the benefit has ended, maternity allowance amounts to 125% of income tested child-care allowance.

Self-employed women in the trades and crafts as well as women farmers are entitled to an equivalent benefit in kind for their business. If such a benefit in kind is not granted, the entitlement to maternity allowance amounting to EUR 25.95 per day (2010) is an option.

Co-insurance for family members

Non-working family members (e.g. children, life partners) are co-insured under health insurance together with the working family member covered

by social insurance. Co-insurance is non-contributory for spouses, registered life partners and persons managing the household

- if they are currently raising a child or raised a child in the past for an uninterrupted period of at least 4 years
- if and as long as they are entitled to long-term care benefit from the federal government at a minimum level of 3
- for children up to the age of 18 as well as children up to the age of 27 if they are undergoing training (Source: www.sgkk.at)

Mother-child medical card

In Austria, medical care for pregnant women, mothers and infants is organised under the programme for the mother-child card. Pregnant women and mothers are entitled to preventive medical check-ups free of charge. Financial incentives are in place to undergo check-ups by coupling payment of part of the child-care benefit to medical examinations.

9.4. Means-tested cash benefits for families in case of indigence

Family supplements of the Laender

At the level of the Laender, special financial support for families with small children is offered; these are dependent on the household income and number of children (weighted per capita income). Family supplements vary from Land to Land.

Eligibility criteria and levels differ markedly, depending on which Land pays the supplements.

Family hardship compensation

Family hardship compensation is a one-time payment; it is an interim aid to help families in times of special hardship for which the family cannot be held responsible (e.g. death, illness, disability, incapacity to work, accident, natural disaster). This benefit does not cover expenses for daily life on a continuous basis. Eligibility criteria are entitlement to family allowance or an existing pregnancy. Recipients of family hardship compensation must hold EU-citizenship, be recognised refugees or stateless.

There is no legal entitlement to family hardship compensation. This benefit is an instrument of the Family Burden Equalisation Fund (FLAF).

In 2009, about 270 one-time payments amounting to a total of EUR 590,000 were granted. About 60% of the payments went to single parents.

Family hospice leave – hardship compensation

Due to this supporting measure created in the context of the family hospice leave introduced in 2002 (see Chapter 12), it is also possible for low-income families to use this type of leave. Family hospice leave is a leave of absence from work while full protection under labour law and social law continues; such leave is taken for persons who wish to care for and accompany a dying relative or seriously ill child, and if this results in financial hardship, a supplement under the family hospice leave hardship compensation scheme can be granted. As for eligibility, the weighted per capita income (exclusive of family allowance, housing assistance, long-term care allowance and child-care allowance) must not exceed EUR 700 per month. In 2009, 353 supplements

totalling EUR 930,000 were granted. The average monthly amount was EUR 726 (ranging from EUR 20 to EUR 2,440 per month dependent on the respective household income). In 45% of

these cases the full amount of the household income had to be substituted, due to the low-income situation of the families.

9.5. Tax credits for families

Essentially, children are taken into account in taxation by way of the tax credit for children, the tax credit for maintenance payments and the sole earner's tax credit as well as the single parent tax credit. 1 January 2009 saw the introduction of the following measures: subsidies for child-care paid by employers, tax deductibility of child-care costs and tax-exempt amount for children.

Tax credit for children and maintenance payments

These credits consider the reduced economic capacity of tax payers with maintenance obligations for children. The tax credit for children amounts to EUR 58.40 per month and child and is paid out together with the family allowance.

The tax credit for maintenance payments is granted to tax payers who have mandatory maintenance obligations for a child who does not live in the same household and for whom they do not receive family allowance. The tax credit for maintenance payments is EUR 29.20 per month for the first child, EUR 43.80 per month for the second child, and EUR 58.40 per month for each further child.

Sole earner's and single parent tax credits

Moreover, single parents and sole earners are entitled to a tax allowance of EUR 364 per year. If their wage tax is so low that the allowance is not or not fully effective, or if no tax is payable, this amount or the remaining balance is paid out to the tax payer as a negative tax.

In addition to the tax allowance, there is an entitlement to a graduated annual supplement for children:

- EUR 130 for the first child,
- EUR 175 for the second child,
- EUR 220 for the third and each further child.

Subsidies for child-care paid by employers

Since 2009, employers are offered the possibility to grant a subsidy to their employees amounting up to EUR 500 per child and per year. Implemented for the first time, this subsidy is tax exempt and not subject to social insurance contributions. In order to benefit from this subsidy, child-care has to be provided by either a public child-care institution, a private child-care institution which complies with regulation of the respective Land or a person having adequate pedagogical qualification.

The subsidy is being paid either to the person directly, or to the child-care institution, or by means of vouchers that are honoured in child-care institutions only.

In order to benefit from the employer's subsidy, the employee has to be entitled to tax credit for children for duration of more than 6 months during a calendar year.

Tax deductibility of child-care costs

As per 2009, tax deductibility of child-care costs amounting to EUR 2,300 per year and per child exists. This measure was implemented in 2009 for the first time. The child in question has to be under the age of 10 at the beginning of the calendar year. In order to benefit from this measure, child-care has to be provided by an institution complying with regulation of the respective Land or a person having adequate pedagogical qualification. Given child-care costs are covered by an employer's subsidy (see above), the remaining costs, which amount to the total value indicated above, can be deducted by the taxpayer (costs not covered by the subsidy). In order to benefit from tax deductibility of child-care costs, entitlement to tax credit for children has to apply for the duration of more than 6 months during a calendar year.

Tax-exempt amount for children

A new measure, which is retroactive as of 1 January 2009, is the tax-exempt amount for

children at EUR 220 per child and per year. Parents, who pay tax on wages or income tax, are entitled to this amount. The tax-exempt amount for children reduces the calculation basis for tax.

The tax-exempt amount for children may apply to one or both parents. In case the latter occurs, each parent is entitled to 60% of the tax-exempt amount, which equals EUR 132. In case tax credit on maintenance payments applies, each of both parents is entitled to the tax-exempt amount for children of EUR 132. This means that single parents are entitled to a tax-exempt amount for children of EUR 220 – however only if the other parent does not pay maintenance for the child. As an eligibility rule for the tax-exempt amount for children, applicants must qualify for the tax credit for children for the duration of more than 6 months during a calendar year.

Other tax incentives for families

Tax payers may also claim tax allowances for certain special expenditures (e.g. person-related insurance contracts, creation or renovation of housing) if the expenditures are incurred for life partners/spouses and their children who do not live in permanent separation from them. The uniform annual maximum amount of EUR 2,920 for special expenditure is increased by another EUR 2,920 per year, if the tax payer is entitled to the sole earner's or single parent tax credit, and/or by EUR 1,460 annually in case of at least three

children; a child can only be taken into account for one tax-payer at a time.

Special expenditures can be listed as tax-exempt amounts in the annual tax return. Such amounts refer to costs and expenses such as:

- costs that have arisen due to illness (also for a relative entitled to maintenance): doctors' fees, costs for medication, hospital fees, dental treatment costs, costs for dental braces, glasses, contact lenses, childbirth costs.
- expenses for training/education of children abroad (lump sum of EUR 110 per month, also during school and university holidays)
- costs for child-care or a home help due to the occupation of a single parent with a deductible amount applying.

No deductible amounts apply in case of adults and children with a disability. Here a lump sum can be deducted from tax (not applicable if long-term care benefits for adults are received). Furthermore, costs of medical treatment can be deducted from tax; sole earners can also claim repayment of additional expenses due to the disability of a spouse. For seriously disabled children, a monthly lump sum can be claimed in addition to the increased family allowance. However, this lump sum has to be balanced against the long-term care benefit. Also, costs for medical treatment and tuition fees have to be considered as well.

CHAPTER 10

BENEFITS IN CASE OF LONG-TERM CARE

10.1. Overview	68
10.2. Long-term care allowance	68
10.3. Benefits for relatives providing care to family members	70
10.4. 24 hours care	70
10.5. Social services in long-term care	71

10.1. Overview

Due to the fact that the number of very old people has risen rapidly, the risk that more persons will need long-term care has turned into a growing socio-political challenge.

In the 1990s the long-term care system in Austria was restructured.

The Federal Care Allowance Act (Bundespflegegeldgesetz), which has been in force since 1993, in conjunction with the corresponding care allowance acts of the Laender, replaced a wide variety of cash benefits of different levels and with different criteria for eligibility. In addition to the restructuring and extension of cash benefits, long-term plans for the extension of social services were created. In 1994, an agreement according to Art. 15a of the Austrian Constitution (Bundesverfassungsgesetz, B-VG) was found

between the federal government and the Laender. In it, the Laender take responsibility to ensure minimum standards in community services, semi-institutional services and institutional services by the year 2010. In the meantime, the reached objectives have been evaluated. Furthermore, the plans have been continuously developed by the Laender in order to meet the demand of new forms of care and the demographic challenge.

In 2008, expenditure for long-term care was EUR 3.8 billion, which corresponds to 1.4% of GDP. Out of this total amount, EUR 2.1 billion went to long-term care allowances paid by the federal government and the Laender, EUR 1.7 billion of net-expenditure went to services paid by the Laender regarding long-term care.

10.2. Long-term care allowance

Long-term care allowance is an earmarked benefit exclusively dedicated to additional expenditure due to care needs and thus is not meant as an increase of income. As the actual costs of care usually exceed the long-term care allowance, it should be regarded as a lump-sum contribution towards care costs. It allows persons in need of care to remain independent to a certain extent and to stay in their accustomed surroundings (for a longer period of time).

The long-term care allowance is granted irrespective of income and assets. There is a legal entitlement to it.

The long-term care allowance is based on the need for care, and the level is exclusively determined by the specific amount of personal services and assistance required. The prerequisite for the granting of long-term care allowance is a need for continuous care due to a mental, physical, psychical or sensory disability that lasts for at least 6 months and takes more than 50 hours per month on average.

The long-term care allowance is granted irrespective of the cause of care needs and the age of the person concerned. However, elderly people in need of care are in the majority.

The long-term care allowance is subject to uniform criteria and governed by one federal law and 9 laws of the Laender. The federal level is in charge if a person receives a pension under federal law or is entitled to such a pension. Co-insured family members, recipients of the needs-based minimum benefit system (hitherto social assistance), or persons who receive a pension from a Land are in this regard within the jurisdiction of the Laender. The long-term care allowance is financed from the general federal budget and the budgets of the Laender.

There are 7 levels of long-term care allowance. The time expended for care per month is decisive for levels 1 to and including 4 (over 50 – 75 hours for level 1, over 75 – 120 hours for level 2, over 120 – 160 hours for level 3, over 160 hours for level 4). Starting from level 5, a quality criterion has to be fulfilled in addition to the time required for care (over 180 hours per month). As the long-term care allowance is a lump-sum contribution towards the increased expenditure incurred for care needs, the actual costs of care are not taken into consideration when the level is determined.

The detailed criteria for determining the care-allowance level are set forth in the Regulation on

Long-term care allowance

Amount per month, level of benefit, recipients ¹					
	Amount per month ² in EUR	Recipients Federal level	Recipients Laender	Recipients total	Share in %
Level 1	154.2	77,500	13,500	91,000	21
Level 2	284.3	121,200	20,300	141,500	33
Level 3	442.9	60,300	11,700	72,000	17
Level 4	664.3	52,600	7,900	60,500	14
Level 5	902.3	32,700	4,700	37,400	9
Level 6	1,242.00	12,300	3,500	15,800	4
Level 7	1,655.80	6,600	2,100	8,700	2
Total		363,200	63,700	426,900	100

1 Status: Figures from the federal level April 2010, from the Laender December 2008

2 Amounts since 1 January 2009

Source: Long-term care allowance statistics of the Federation of Austrian Social Insurance Institutions and the BMASK, BMASK: Report on Long-Term Care Provision 2008

Classification in the framework of the Federal Long-Term Care Act (Einstufungsverordnung zum Bundespflegegeldgesetz). The regulation contains definitions of personal services and assistance as well as the times required for the individual activities, e.g. dressing and undressing, personal hygiene, preparing and eating meals and mobility. The decision on the long-term care allowance is based on a doctor's expert opinion; representatives of other fields (e.g. nursing) are also brought in for an extensive assessment of the situation. The expert opinion is usually drawn up after an examination in the home. The special needs of persons with mental and psychological disabilities are taken into consideration in the regulation as instruction and supervision are treated as equivalent with personal services and assistance, and a time coefficient is attributed to the conversation on motivation.

As of 2009, an amendment to the Federal Long-Term Care Act stipulates the following lump sum values (supplements for aggravations) for aggravating factors in long-term care situations:

- 25 hours per month for persons from the age of 15, suffering from serious mental or psychological disabilities as well as suffering from dementia
- 50 hours per month for children and adolescents with serious disabilities until the age of 7 and 75 hours per month for children and adolescents with serious disabilities until the age of 15.

Classification is based on functional criteria; minimum levels for people with severe visual disabilities, blind and deaf-blind persons as well as persons who primarily need a wheelchair to lead an independent life are set forth in the law. Thus, the special care needs of these persons are taken into account.

Share of long-term care allowance recipients in their peer groups

Ages	Men	Women	Men and women
0 – 20	0.8%	0.6%	0.7%
21 – 40	1.0%	0.7%	0.9%
41 – 60	2.0%	1.9%	1.9%
61 – 80	8.1%	11.3%	9.8%
81 +	44.6%	66.2%	60.0%
Total	3.4%	6.6%	5.1%

Status: Recipients of long-term care allowance at the federal level and at the level of the Laender in December 2008; population 2008.

Source: Austrian statistical office – Statistik Austria; BMASK: Report on Long-Term Care Provision 2008.

More than half of recipients (54%) draw long-term care allowance of the two lowest levels paid by the federal level and the Laender, 40% of recipients are classified as levels 3 – 5 and 6% are in the categories of the two highest levels. Due to the longer life expectancy of women, more than two thirds of recipients of long-term care allowance are female (about 67%).

The percentage of long-term care allowance recipients amongst those from 21 up to the age of 40 is less than 1%, 2% in the age group from 41 to 60 are recipients of long-term care allowance, 10% of people who are between 61 and 80 years old, and 60% out of all persons over 80 receive the long-term care allowance.

Among recipients of the long-term care allowance, 3% are younger than 20, 5% are between 21 and 40 years old, 11% belong to the age group between 41 and 60, 34% are between 61 and 80 years and 48% are over 80.

10.3. Benefits for relatives providing care to family members

Another aim of the Austrian long-term care provision system is a stronger position of relatives providing care. The following numerous measures were taken:

- Preferential terms of self-insurance and continued insurance under the pension insurance scheme for those who take care of a close relative entitled to long-term care allowance of level 3 and above and had to give up their job for that reasons. As per 1 August 2009, employer's and employee's insurance contributions are covered by the federal level for an unlimited period.
- Relatives are co-insured under the health care scheme in case they care for an insured person entitled to long-term allowance from level 3 or higher.
- The scope of caring relatives was extended to cover short-term care for recipients of long-term allowance at level 3; and care for persons suffering from dementia (based on medical evidence) as well as minors at level 1 or higher.
- Further improvements were brought about by concurrent measures in family hospice leave (granting advance payment, modified pay-out procedure).
- Home visits (at federal level) through trained and professional nursing staff with the objective to inform and counsel recipients of long-term care allowance from levels 1 to 7 and their affected relatives on specific care situations in order to promote quality assurance in domestic care.
- Support of interdisciplinary 'dementia-teams' by the BMASK in order to counsel and inform on matters relating to dementia, provide care during house visits and elaborate tailor-made solutions for all persons affected.
- The 'Pflegetelefon' (www.pflegedaheim.at) and the database 'Hilfsmittelinfo-Österreich' (www.hilfsmittelinfo.gv.at – an information pool on technical equipment for care via the Internet) constitute important sources and centres of help and counselling for care recipients and persons providing care.

10.4. 24 hours care

The Home Care Act (Hausbetreuungsgesetz – HbeG) and the amendment to the trade law constitute the legal basis under labour law and trade law to enable an up to 24 hours care in private households. This official form of home care can be realised either by the parties concerned entering into an employment contract (employed carer) or by entering into a contract for works and services (self-employed carer).

In order to support 24 hours care, the BMASK developed a support model. This model has the objective of financial supplement of care services

for beneficiaries out of the Support Fund for People with Disabilities (Unterstützungsfonds für Menschen mit Behinderungen). In case of employment contracts for care provision, the supplement amounts to up to EUR 1,100; in case of contracts for work and services for care provision, the supplement amounts to up to EUR 550.

The income of the person in need of care must not exceed the net amount of EUR 2,500. Long-term care allowance, special bonus payments, family allowance, child-care benefit and housing

assistance are not taken into account. For relatives entitled to maintenance payments the income threshold is raised by EUR 400 or EUR 600 in case the maintenance payment's beneficiary is disabled.

The supplement is granted irrespective of the assets or property of the person in need of care.

An employment contract or a contract for works and services in the field of care has to be entered into between the person in need of care or one of his/her family members on the one hand, and the self-employed carer, who works in the unlicensed trade of personal care. Another option is a contract between the person in need of care or one of his/her family members and a non-profit institution providing care services.

The person requiring care must be eligible for at least level 3 of long-term care allowance under federal care legislation or the care legislation of a Land.

In order to safeguard the necessary quality of care, the persons providing care have to fulfil one of the following criteria:

- 1) educational qualification equalling the qualification of a home help assistance provider or
- 2) having adequately cared for the supplement applicant for a period of at least 6 months or
- 3) possessing professional authorisation to provide care services.

Since 2009, one of the three quality criteria has to be met in order to be eligible for financial supplement with regard to the support of 24 hours care.

For information and filing of application the Federal Social Welfare Office and its nine Laender-outlets as well as the platform <http://www.pflegedaheim.at> are the central points of contact.

10.5. Social services in long-term care

Social services are being offered by independent welfare organisations, the Laender and the local authorities. The number of persons employed in this field is approx. 80,000 (mainly certified male and female nurses, assistant male and female nurses, home helps, case workers and certified social workers working with the elderly, families, disabled persons or in the field of accompanying of persons with disabilities). In the period from 2003-2006, the number of persons attending to the elderly increased by 15%. There is a clear tendency for persons working in this field to upgrade their qualification. About 80% of staff are women.

Mobile and outpatient services

Mobile services are i.e. domestic care provided to ill persons, home help service and family help service, meals on wheels, visitor service or accompanying services.

- In the period of 2000-2008, the demand for mobile services increased by 30% from 10.6 million hours to 13.7 million hours.
- According to the Austrian Report on Long-Term Care Provision 2008, net-expenditure for mobile and outpatient services was at EUR 310 million. This is an increase by 46% with regard to the year 2000.

- According to an estimate by the BMASK, the number of persons to which mobile and outpatient services provide care is approx. 130,000.

Semi-inpatient services

Geriatric day centres or day care centres have continuously gained in importance in the field of long-term care in Austria.

In 2008, net-expenditure for semi-inpatient services was at approx. EUR 163 million (the Laender Styria and the Tyrol not included).

Inpatient services

Residential and nursing homes for the elderly, short-term care, transitional care and care during holidays are to be listed under the heading of social service and support.

In 2008, 73,000 persons lived in residential and nursing homes for the elderly (13,500 residential units, 39,000 nursing units and 20,500 residential units with nursing) with strictly-residential units on the decrease and nursing units on the increase. According to data provided by the Laender, net-expenditure for inpatient services was at EUR 1.2 billion in 2008.

Professions in the field of social work

In 2005, the federal level and the Laender entered into an agreement, which led to a clear upgrading of professions in the field of social work.¹⁹ The most important aspects of this agreement are the creation of a modular educational system,

unified educational standards in Austria, harmonisation of job profiles and descriptions, increased flexibility to swap between the occupational groups, uniform recognition of educational degrees and professions in the field of social work and quality improvement for the clients of social workers.

19. This concerns the disciplines: home help, case worker with focus on working with the elderly, working with persons with disabilities, accompanying of persons with disabilities; certified social workers with focus on working with the elderly, working with families, working with persons with disabilities, accompanying of persons with disabilities. The Federal Ministry of Health passed the amendment to the Health Care Act and the regulation on education in the field of basic care provision. Regulation governing organisational aspects of education was passed by the Ministry of Education. Regulation entered into force already.

Occupational regulation, being in the responsibility of the Laender, was passed by all of the Laender between 2007 and 2009.

CHAPTER 11

MINIMUM INCOME PROVISION

11.1.	Overview	74
11.2.	The equalisation supplement under mandatory pension insurance	74
11.3.	Unemployment benefit and emergency unemployment assistance under unemployment insurance	75
11.4.	Needs-based minimum benefit system (social assistance until 2010)	75
11.5.	Supplementary pensions under the social indemnification schemes	78
11.6.	Wage policies under collective agreements	78

11.1. Overview

96% of cash benefits under social protection systems are not means-tested. Eligibility for these benefits and benefit levels are either derived from the principles underlying social insurance or the principle of unconditional entitlement in case of risk ('universal benefits'). The social protection systems thus prevent poverty for the majority of the population.

However, these provisions are insufficient for a part of the population. For this reason, additional means-tested benefits (with eligibility based on investigations into a person's income and sometimes also assets or property) are offered under the social insurance schemes, other social protection schemes and special social assistance systems.

Under pension insurance, the equalisation supplement is a case in point; the same is true of the emergency unemployment assistance and to a certain extent the unemployment benefit under unemployment insurance (for unemployment benefit and the emergency unemployment assistance see Chapter 7). For special risk situations, certain means-tested benefits are available from the Family Burden Equalisation

Fund. Until the year 2010, social assistance, a responsibility of the Laender, served as a means of support if a person's own income and property, the income and property of family members obliged to pay maintenance, and income from other social protection systems do not suffice to reach a certain minimum standard (principle of subsidiarity). From autumn 2010 onwards, the needs-based minimum benefit system continues the development of the social welfare scheme of the Laender. Means-tested welfare benefits e.g. include school and study grants as well as handling charge exemptions.

In 2008, a total of approx. EUR 2.4 billion were spent on means-tested benefits: i.e. EUR 1 billion for the equalisation supplement under the mandatory pension insurance, about EUR 0.6 billion for cash benefits under the unemployment insurance scheme (especially unemployment assistance), approx. EUR 0.3 billion for cash benefits paid by the Laender (primarily social assistance), about EUR 0.3 billion for housing and rental assistance, EUR 0.2 billion for school and study grants for social reasons.

11.2. The equalisation supplement under mandatory pension insurance

In case of financial indigence, low pensions under the mandatory pension insurance are raised to a certain threshold (equalisation supplement reference rate). If the total pension and other net income and amounts to be set off (such as maintenance payments) are below a certain threshold, an equalisation supplement amounting to the balance is due. Apart from the pensioners' income, the income of spouses or life partners is also taken into account. A number of benefits, such as the long-term care allowance or housing allowances, as well as property, are exempted from the setoff against the equalisation supplement.

The equalisation supplement is a special benefit independent from contributions and listed in Annex IIa of Regulation (EEC) 1408/71; it is only granted to persons who have their habitual residence in Austria.

The monthly reference rate (2010) is EUR 784 for single persons and EUR 1,175 for married couples (14 times a year). Moreover, a supplement of EUR 82 per child is granted.

The equalisation supplement reference rate for single persons amounts to approx. 60% of the median net per capita income.

In 2009, the average equalisation supplement was EUR 280. By the end of 2009 approx. 242,000 persons (out of which 68% were women) received an equalisation supplement. This is equivalent to 11% of pensioners under the mandatory pension insurance.

11.3. Unemployment benefit and emergency unemployment assistance under unemployment insurance

The unemployment insurance scheme does not foresee minimum levels with respect to the unemployment benefit and emergency unemployment assistance; however, the unemployment insurance system has some attributes of a minimum income. The amounts paid to about half of those receiving unemployment benefits and three quarters of those granted emergency unemployment assistance are lower than the equalisation supplement reference rate (under the pension insurance scheme) for single persons.

When calculating the unemployment benefit, the generally valid replacement rate of the last net-income from gainful employment is raised from 55% to 60% (supplementary benefit), if the unemployment benefit falls below the individual reference rate for the equalisation supplement. In case of maintenance obligations for family members, the unemployment benefit is increased to 80% of the previous net income. The equalisation supplement reference rate is the ceiling.

In 2009, about 89,000 recipients of unemployment benefits were also granted the supplementary benefit. The monthly supplementary benefit per beneficiary was EUR 80.

Emergency unemployment assistance is paid during longer periods of unemployment, and when the entitlement to the unemployment benefit has ended; it is paid for an unlimited time, and is due in situations of need and if other criteria are fulfilled (ability and willingness to work). Upon introduction of the needs-based minimum benefit system, emergency unemployment assistance will be calculated on the basis of the amount of the unemployment benefit and the supplementary benefit, if applicable. The net income of the spouse or the life partner is charged only to the extent of preserving a minimum threshold equal to the equalisation supplement reference rate for married couples (EUR 1,116 in 2010) including supplements for children (see Chapter 7).

11.4. Needs-based minimum benefit system

The needs-based minimum benefit system is an important measure in the field of poverty prevention and is a further step in the development of the social welfare scheme, which existed at the level of the Laender up to 2010.

Under the Austrian Federal Constitution, Article 15a, the agreement entered upon between the federal level and the Laender stipulates the cornerstones of the needs-based minimum benefit system, implemented in federal legislation and in the legislation of the Laender.

The needs-based minimum benefit system comprises benefits for safeguarding subsistence and accommodation as well as protection in cases of sickness, pregnancy and childbirth. In contrast to former social assistance, standard ruling exist in the framework of the needs-based minimum benefit system. This regards:

- the eligibility for benefit,

- provisions with respect to recourse,
- minimum level of benefits and
- procedural law.

Furthermore, the needs-based minimum benefit system provides for:

- the inclusion of beneficiaries without health care insurance-cover in the mandatory health care insurance scheme²⁰
- the introduction of a 'One Stop Shop' at the Public Employment Service; unemployed clients of the Public Employment Service, who are able to work, have the possibility to file their application for the needs-based minimum benefit system at the Shop. The application is then submitted to the responsible social welfare authority of the Land
- the strengthening of minimum income aspects in the unemployment insurance act: raising of

20. Upon enactment of the needs-based minimum benefit system, the unemployment insurance act was amended and provides now for health insurance cover for persons not entitled to unemployment assistance due to the crediting of income of the spouse/life partner, regardless of any existing co-insurance.

the net-replacement rate and improved criteria for taking into account the incomes of spouses/life partners, when emergency unemployment assistance is being received by beneficiaries (see 11.3.)

Criteria of eligibility for needs-based minimum benefit system:

The needs-based minimum benefit system is not to be regarded as an unconditional provision of basic income. Eligibility applies only if the person in question is neither able to cover costs of subsistence by his/her own means or capacity (work, use of income, assets and property) nor out of entitlement to benefits under social insurance schemes or other relevant benefits (principle of subsidiarity).

Consequently, a lump sum benefit (equal to a minimum level) shall safeguard recurring expenses' cover. The term expenses may apply to nutrition, clothing, personal hygiene, household goods, heating, electricity and personal needs necessary for adequate social and cultural inclusion.

Apart from a few exceptions, a person's own income, assets and property must be considered before benefits under the needs-based minimum benefit system scheme can be claimed.

However this condition does not refer to the following assets or property:

- means and items necessary to engage in occupation and to cover mental/cultural needs
- motor vehicles that are necessary due to occupation, disability or lack of infrastructure

- appropriate household goods
- savings up to the amount of EUR 3,700 (2010).

Persons who have the capacity to work must also be willing to work. Exceptions exist for persons who

- have reached the regular retirement age (in accordance with the General Social Insurance Act)
- have to care for children that are under the age of 3 and are not able to work due to lack of suitable child-caring options
- have to primarily care for relatives in need of long-term care at level 3 or higher
- have to attend to a dying person or seriously ill children
- undergo education or training in which they enrolled before the age of 18 (this does not apply to tertiary education).

The entitlement to a benefit is linked to the right to permanent residence in Austria, the objective being the prevention of 'social tourism' (i.e. persons coming to Austria for the reason of receiving more generous benefits).

Level of benefits of the needs-based minimum benefit system:

The level of benefits of the needs-based minimum benefit system is based on the monthly net-equal supplement reference rate under the pension insurance scheme. In 2010, this amounts to EUR 744 (12 times per year). (Married) couples

Overview on minimum levels of benefits for 2010, in relation to the basic amount

	Percentage	Fixed amount (as per 2010) in EUR
Single persons	100	744.00
Single parents	100	744.00
(Married) couples	150 (2x75)	1,116.00
Every further adult in the household entitled to the benefit and also entitled to maintenance payments	50	372.00
Persons in a flat-sharing community with no reciprocal entitlement to maintenance payments	75	558.00
1 st – 3 rd minor child	18	133.90
From 4 th minor child onwards	15	111.60

Source: BMASK

receive EUR 1,116 (12 times per year). Apart from the needs-based minimum benefit system, the Laender remain responsible to cover any additional or special demands, such as supplements to heating costs.

The lump sum minimum level is covering costs for housing partially. In case appropriate housing costs exceed 25% of the minimum level of the demand of a household, the Laender shall cover these additional costs arisen by means of further benefits. The Laender can allocate the additional benefits out of the minimum income-funds or the housing assistance.

One has to remark that the levels presented here are to be regarded as minimum standards, which might be exceeded by the Laender. In some Laender, more advantageous benefits are foreseen, for example for children.

Improvements provided by the needs-based minimum benefit system in comparison to social assistance:

Uniform minimum standards: Up to 2010, the social assistance reference rates varied considerably depending on the respective Land. The needs-based minimum benefit system safeguards minimum standards for all persons entitled to this benefit. This benefit service is guaranteed. The Laender are free to grant higher amounts.

E-Card for everyone: Unlimited access to medical services is guaranteed since beneficiaries, who hitherto had not been covered by health care insurance, are now affiliated to the mandatory health care insurance scheme. Hence, the social stigma, associated with the health insurance voucher, issued by the social assistance authority, is a thing of the past.

Better benefits for single parents: Single parents are among the groups most at risk of poverty. Hence, they will receive under the needs-based minimum benefit system the same level of benefits as single persons. Up to now, single parents in the majority of the Laender only received the lower social assistance reference rate for the primarily supported persons.

Limited consideration of assets and property: Uniform criteria exist for means-tested minimum income's eligibility. There are clear exceptions regarding consideration of assets and property (such as the motor vehicle needed, household

goods, means and items for employment) and a fixed asset exemption. The securing of real estate in the land register (such as the house where the family lives in) will be carried out only after 6 months of claim duration only.

Almost complete omission of recourse claims: Given the fact that the obligation to benefit-reimbursement constitutes a considerable inhibition threshold, reimbursements are almost completely omitted. If former beneficiaries regain an income source of their own at a later stage in life, they are not obliged to reimbursement. Unlike in the case of social assistance, parents are not obliged to benefit-reimbursement after their children have reached adulthood and children cannot be obliged to reimbursement of benefits received by their parents.

More legal security: Access to law is safeguarded by a special procedural law. The sending of written, negative notifications is a minimum standard, which not all Laender comply with yet. Furthermore, the period for the passing of a decision will be shortened to 3 months.

Reduction of the non-take-up-rate: Due to various reasons, social assistance is not being applied for by some persons albeit existing eligibility (non-take-up). By almost eliminating recourse and with moderate conditions for asset and property consideration, the access barriers to eligibility have been lowered considerably.

Improved measures for labour market inclusion: One of the core objectives of the needs-based minimum benefit system scheme is the stronger inclusion of groups of persons, which up to now were on the fringes of the employment market, into the scope of objectives of the Public Employment Service. Unemployed beneficiaries of the needs-based minimum benefit system should be supported as best as possible in the reintegration into the labour market. In this respect, beneficiaries should be able to make use of the array of support measures and training offers of the Public Employment Service.

Incentives to take up an occupation: Persons who re-join the labour market will benefit from a tax-free allowance for re-entrants, aiming at persuading beneficiaries that taking up an occupation pays off. If a person takes up a job after receiving benefits from the needs-based minimum benefit system for a longer time, the resulting additional income will not be balanced right away against

the needs-based minimum benefits the person has received. Also, the elimination of the benefit reimbursement obligation for former beneficiaries should serve as an incentive to take up an occupation (again).

Improvement of benefits for **children of recipients of the equalisation supplement** under the pension insurance scheme.

11.5. Supplementary pensions under the social indemnification schemes

Means-tested pensions from the social indemnification schemes (see Chapter 4) function as minimum income provision (supplementary pensions under the Act on the Compensation to War Victims, maintenance pensions under the Victim Welfare Act, means-tested benefits under the Act on Military Service Victim Support, the Act on Victims of Vaccination-Induced Disabilities and the Act on Crime Victims).

On 1 January 2010, about 8,800 persons received means-tested benefits under the Act on the Compensation to War Victims, about 700 persons received benefits under the Victim Welfare Act, 50 persons received benefits under the Act on Military Service Victim Support, 1 person was entitled to means-tested benefits under the Act on Crime Victims and 1 person was entitled to means-tested benefits under the Act on Victims of Vaccination-Induced Disabilities.

11.6. Wage policies under collective agreements

In Austria, minimum wages are not determined by law. Instead, wage policies are a responsibility of the representations of interest of employers and employees, which are independent in their decision-making in this regard. They set minimum wages by entering into collective agreements, which are usually concluded annually at the sectoral level. Collective agreements have mandatory effect so that the provisions governing pay and working conditions have an immediate and binding legal impact on individual employment contracts. About 95% of employment contracts

in the private sector are subject to collective agreements.

In 2005, the pay of about 4% of full-time workers (7% of women, 2% of men) was below EUR 1,000 per month (14 times per year). The social partners entered into an agreement in principle whereby the minimum wages below EUR 1,000 a month (14 times per year) will be raised to at least EUR 1,000 in the collective bargaining rounds of 2008/2009. In 2009, the threshold of EUR 1,000 was reached and in most cases even exceeded.

CHAPTER 12

PROVISIONS UNDER LABOUR LAW

12.1.	Collective Agreements	80
12.2.	Work councils and works agreements	80
12.3.	Working hours	80
12.4.	Vacation entitlements	82
12.5.	Family-related provisions under labour law	82
12.6.	Educational leave	83
12.7.	Unemployment-related provisions under labour law	83
12.8.	Entitlements upon termination of employment	84
12.9.	Entitlements under labour law in case of sickness	85
12.10.	Labour-law provisions concerning people with disabilities	86
12.11.	Equal treatment	87
12.12.	Mandatory provisions on the equalization of persons with disabilities (under labour law and in other fields)	88

12.1. Collective agreements

When it comes to designing pay structures and employer/employee relations, supra- and intra-company social partnership plays a very important role. These interest groups are relatively centralised bodies, which usually enter into collective agreements at the sectoral level. Apart from wages and salaries, the collective agreements govern essential working conditions (e.g. flexible working hours, periods of notice in case of termination of employment, wages supplements). Collective agreements serve to give sectors uniform pay standards and working conditions, which has a significant impact on competitive conditions.

Austria differs from other countries in that collective agreements apply to all workers in a sector, regardless of whether they are trade union members or not. Since only part of the employed

population is organised in trade unions, collective agreements thus have an important exterior effect as they prevent the downward pressure on wages.

Collective agreements have a direct bearing on individual employment contracts and can neither be restricted nor set aside to the detriment of workers by individual contracts or works agreements. Usually, it is possible to enter into agreements, which are more favourable for workers.

In cases, where employment is not subject to any collective agreement (about 5% of cases), the law provides for the official fixation of minimum pay by way of ordinance (minimum wage tariff) under certain conditions; in addition to the statutes (which declare collective agreements to be generally applicable).

12.2. Work councils and works agreements

At the level of the individual business, work councils are important bodies representing the interests of workers. According to the law, every business, which permanently employs at least five workers, is obliged to have a works council. However, there are no sanctions if this obligation is not fulfilled. Work councils members are independent from trade unions, but in fact, 90% of work council members are at the same time members of trade unions. Work council members enjoy special protection from termination of employment and dismissal.

Company agreements are the most important instruments of workers' co-determination in busi-

nesses. The right to enter into company agreements can only be exercised by the works council. Mandatory provisions and collective agreements form the framework within which company agreements can be used for more detailed arrangements at the shop level. As a matter of principle, company agreements apply directly to all workers in a business. Depending on the contents of the company agreements, there are different legal instruments to enforce the conclusion of company agreements as such.

Moreover, the work councils have a number of mandatory rights to information, monitoring and consultation vis-à-vis the management.

12.3. Working hours

Mandatory standard working hours

According to legislation, standard working hours are defined as 8 hours per day and 40 hours per week. Standard working hours defined in collective agreements may also be lower. In most sectors, weekly standard working hours are below 40 hours, due to collective agreements.

If normal working hours are exceeded, this will be considered extra work or overtime. As a rule, total working hours (= standard working hours + overtime) must not exceed 10 hours per day and an average of 48 hours per week within the period for averaging working hours according to law or collective agreement; in individual weeks working hours of up to 50 hours are permissible.

Maximum admissible period for averaging working hours	Maximum admissible standard working hours per week	Maximum admissible standard working hours per day
Up to 52 weeks	Up to 48 hours	Up to 9 hours
More than 52 weeks are only allowed if several consecutive weeks of compensation time are granted	Up to 50 weeks are only possible if the period for averaging working hours is a maximum of 8 weeks	Up to 10 hours only in case of 4-day working week or several consecutive days of compensation time, with period for averaging working hours of up to 52 weeks

Source: BMASK

Employers may be fined for exceeding these limits.

Flexible working hours under collective agreements

The Act on Working Hours (Arbeitszeitgesetz, AZG) governs the fundamental principles of working hours; alterations in working hours can be agreed upon by the parties to the collective agreements and – within the framework of the collective agreements – in company agreements, if they comply with the Act on Working Hours. Under this act, there are far-reaching options for more flexible working hours, but these require related provisions in the collective agreements and thus the consent of the trade unions. For example, it is thus possible to negotiate issues of job security, safety at work or attractive options of compensating overtime with time off work along with more flexible working hours in the framework of collective agreements or company agreements (provided they are entitled to so by collective agreements). If no collective agreement is in place because there does not exist a negotiating body, company agreements replace collective agreements.

Collective agreements may determine flexible models for averaging working hours within the framework of the Act on Working Hours, with a higher number of standard working hours per day and longer standard working hours per week. However, the average number of standard working hours per week must not be exceeded within a certain period (period for averaging working hours). Any extra time outside the average weekly working hours identified at the end of a period for averaging will be treated as overtime. In principle, working hours can be shaped in a more flexible way if the consecutive

periods off, granted as compensation, are longer. Under collective agreements, periods for averaging working hours of up to 52 weeks or even longer can be stipulated if they are combined with several weeks of time off. Daily standard working hours within the period for averaging may be defined as 10 hours. Weekly standard working hours may be extended to a maximum of 48 hours, and if the period for averaging is a maximum of 8 weeks, this can even go up to 50 hours. The negotiators of collective agreements may, however, opt to extend standard working hours per day to up to 10 hours whilst introducing a 4-day working week or creating a possibility for longer periods off.

Actual hours worked in Austria

In 2009, more than half of those gainfully employed in Austria (52%) worked between 36 and 40 hours per week. Almost one quarter (22%) usually works for more than 40 hours. Men work overtime more often than women, whereas a much larger share of women works up to 35 hours a week only. The rate of women in part-time jobs (below 36 working hours/week) is 44%.

Weekly working hours in % according to employees, 2009

	Total	Men	Women
Up to 24 hours	15	5	25
25-35 hours	11	3	19
36-40hours	52	60	44
More than 40 hours	22	32	12

Source: Microcensus (Austrian statistical office – Statistik Austria); Labour Force Concept

12.4. Vacation entitlements

In Austria there is a mandatory provision on the minimum period of leave. Every worker is entitled to at least 5 weeks or 30 working days (= all days of the year except for Sunday and public holidays) of leave per working year. For workers, who have been employed by the same employer for more than 25 years, the mandatory vacation entitlements rise to 36 working days or 6 weeks.

Workers in jobs involving heavy manual labour and night shifts are entitled to additional leave of up to 6 working days per year.

To protect workers, such leave must be taken while an employment contract is in force; it is forbidden for the employer to pay the worker financial compensation for not taking mandatory leave.

12.5. Family-related provisions under labour law

Maternity protection

Protective provisions for expectant mothers serve to secure the life and health of pregnant women and their unborn children. They apply to all employees and include the prohibition of work physically harmful to the expectant mothers and unborn children, as well as the prohibition of night shifts, work on Sundays and public holidays, as well as overtime for pregnant and nursing mothers. Eight weeks before and eight weeks (to a maximum of 12 weeks) after childbirth, women are prohibited from working altogether.

Release from work until the 2nd birthday of the child

Under the laws governing maternity protection and paternal leave, there is entitlement to unpaid parental leave to care for an infant or small child until he/she turns 2; mother and father may alternate in taking leave in this context (they are paid child-care allowance during that period. The duration of the paid out child-care allowance depends on the benefit model selected. See Chapter 9). In order to be eligible for this leave, the employee has to live with the child in the same household.

Part-time work for parents

In businesses with more than 20 workers, there is an entitlement to part-time work until the child turns 7 or starts school after that date, provided that the employer-employee relationship has lasted for at least three years. The start of the arrangement, its duration and extent, as well as working hours and organisation of working-time, have to be agreed upon with the employer. If there are any disagreements, this shall be subject

to the right to apply to the Labour and Social Courts. The court will weigh the interests of both parties and take a decision. If there is no entitlement to part-time work for parents, part-time work may be agreed upon not in any event beyond the child's fourth birthday.

Protection from termination of employment and dismissal

Pregnant women may only be given notice of termination for certain reasons, e.g. because the business is closed down or operations are permanently downsized; usually, the approval of the Labour and Social Court is required. A woman working under an unlimited employment contract must not be given notice of termination from the beginning of pregnancy to the end of four weeks after childbirth, or four weeks after the end of parental leave or part-time work under the Act on Maternity (no longer than 4 weeks after the child's 4th birthday). In case of part-time work beyond the child's 4th birthday, a dismissal for availing oneself of part-time work is impermissible (protection against dismissal without grounds).

Fathers are protected from termination of employment from the time they declare to avail themselves of the opportunity of parental leave or part-time work for parents, or at the earliest 4 months before parental leave or part-time work starts. The protection period also ends four weeks after the end of parental leave or part-time work, or no longer than 4 weeks after the child's 4th birthday. In case of part-time work past the child's 4th birthday, termination of employment for the reason that the father claimed his entitlement to part-time work is impermissible.

Family hospice leave

Since the option of family hospice leave was introduced on 1 July 2002, it became possible to accompany dying relatives or seriously ill children. Persons who accompany dying relatives or seriously ill children continue to be covered by health and pension insurance during the period in question. In special cases, the Family Burden Equalisation Fund will provide financial support. Contribution of benefits is split according to the level of income: in case of an income up to the marginal earnings threshold (EUR 366.33 in

2010), benefits are covered by funds from the unemployment insurance (health care insurance) and the federal level (pension insurance); in case the income level ranges between EUR 336.33 and EUR 1,528.87, benefits are covered by the employer and the federal level (pension insurance – increase of the basic amount paid by the employer); if the income is EUR 1,528.87 or higher, benefits are covered by the employer (regulations on family hospice leave under the mandatory social insurance scheme do not apply).

12.6. Educational leave

This provision enables workers to take leave for training or continuing education for a period of three to twelve months. From 1 January 2012, the minimum period of educational leave will be 3 months. There is no way for the workers to force the employer to consent, but they are protected from termination of employment during the period if they take educational leave. During

such leave, a cash benefit from the unemployment insurance equivalent to the fictitious unemployment benefit is drawn. If a worker takes leave for reasons other than training or continuing education, eligibility for a benefit from the unemployment insurance scheme is dependent on the employer hiring a substitute for the period of leave.

12.7. Unemployment-related provisions under labour law

Protection from termination of employment

In principle, an employer may terminate an employment contract any time without giving reasons, provided that the mandatory periods and dates for giving notice as well as related provisions under collective agreements or individual contracts are adhered to. In case of good cause, e.g. unjustified absence from work, the employment contract may be cancelled without notice

(dismissal). Mandatory periods of notice to be observed by employers are longer for white-collar workers than they are for blue-collar workers.

The employer is obliged to inform the works council of any intended termination of employment. The works council may comment within 5 working days and call for consultations with the employer. If the works council expressly objects to the termination of employment, the works

Periods of notice in case of termination initiated by the employer

Period worked with employer	White-collar workers	Blue-collar workers under trade regulation
	Period	
Less than 2 years	6 weeks	Statutory period 14 days. May be extended or shortened by collective agreement or individual employment contract.
After 2 years	2 months	
After 5 years	3 months	
After 15 years	4 months	
After 25 years	5 months	

Source: BMASK

council or the worker may contest it if it is considered socially inequitable. Terminations of employment for proscribed reasons (e.g. because the worker advocates trade union causes) or discriminating terminations may be contested by the worker him/herself, even if the works council has agreed to the intended termination.

If five workers are given notice of termination in a business employing at least 20 persons, the employer and the works council may enter into an agreement to alleviate the social impact of terminations for operational reasons (social plan). If the employer is not willing to conclude a company agreement in this context, the works council may force this issue via a quasi-tribunal including representatives of the social partners.

Certain groups of workers enjoy special protection from notice of termination. These include members of the works council, pregnant women, mothers after childbirth, parents during parental leave or while working part-time after childbirth

(see Chapter 9), people with disabilities as well as persons performing their military or community service. In any case official approval is required.

In the following cases, intended terminations of employment have to be reported to the Austrian Public Employment Service (AMS) at least 30 days before the first termination is announced:

Notice to

- at least five workers in businesses with more than 20 and fewer than 100 workers;
- at least 5% of workers in businesses with 100 to 600 workers;
- at least 30 workers in businesses with more than 600 workers;
- at least five workers aged 50 and over.

The Public Employment Service has to provide advisory services without delay and work towards finding employment for the persons concerned in the same or a different business.

12.8. Entitlements upon termination of employment

When employment is terminated, workers have various entitlements vis-à-vis their employers under labour law: first and foremost an entitlement to the old-scheme severance pay, compensation for leave not taken and prorated special bonus payments as well as indemnity for termination of employment.

Old-scheme severance pay

Workers (not including civil servants), whose employment started prior to 2003 and who did not opt into the employee income provision

scheme in 2003, are entitled to severance pay when their employment is terminated. To be eligible, they have to have worked in the business for a certain minimum period and be given notice of termination by the employer, or to retire after at least 10 years of employment in the business. The severance pay level depends on the time worked for the business; it ranges between two and 12 monthly remunerations. The monthly remuneration is defined as one twelfth of the annual salary including special bonus payments, regular overtime, supplements etc.

Severance pay levels

After 3 working years	2 monthly remunerations
After 5 working years	3 monthly remunerations
After 10 working years	4 monthly remunerations
After 15 working years	6 monthly remunerations
After 20 working years	9 monthly remunerations
After 25 working years	12 monthly remunerations

Source: BMASK

Employee income provision

As only a relatively small number of workers is actually entitled to severance pay upon termination of employment and as the element of occupational pension schemes (2nd pillar of the pension system) was to be strengthened, the severance pay system was replaced by the new employee income provision scheme in 2002. Persons, who took up employment before 2003 are able to choose between the old-scheme severance pay and the new employee income provision systems, provided an agreement has been entered into with the employer. As from 2003 employers have to pay 1.53% of the wages

of new employees taking up employment into one of the employee income provision funds. The funds have to invest the money according to legislation.

After the end of employment – and after three contributory years at the earliest – workers are entitled to be paid out the amount paid in, including interest, unless the worker him/herself gave notice to quit, was dismissed due to a fault or resigned without notice. In contrast to the former severance pay system, previous contributions are not lost in such cases; they may be claimed when the following employment contract is terminated, e.g. by notice of termination given by the employer. The amount saved up may be left in the fund after the end of employment contracts and e.g. be withdrawn upon retirement. The money may also be transferred to a private supplementary insurance or a pension fund. The amounts invested are exempt from capital gains tax. Like severance pay, the amount paid out is subject to a tax rate of 6%. No tax is due if the money is paid out as a monthly pension.

Financial compensation for leave not taken

When an employment contract ends, the worker concerned is entitled to compensation for any

leave not taken. Usually, this amount is a prorated compensation. Possibly, payment of compensation for leave not taken may delay the entitlement to unemployment benefit.

Prorated special bonus payments

If the collective agreement or employment contract provides for the so-called 13th and 14th monthly salary (special bonus payments), the worker usually has to be paid out the prorated amount corresponding to the time worked since the previous special bonuses were paid. Almost all workers are entitled to these special bonus payments.

Indemnity for termination of employment

Under certain circumstances (e.g. if the employer does not observe the period of notice and due date in case of termination of the employment contract), the employer has to pay all amounts, which the worker would have been entitled to up to the fictitious proper date of termination (e.g. if the period of notice and due date had been observed); this payment is called indemnity for termination of employment.

12.9. Entitlements under labour law in case of sickness

If a worker is unable to work due to illness or accident, he/she is entitled to continued payment of remuneration by the employer for a certain period. The duration of this period depends on the time, which the worker has been employed by the business. The longer the period of employment is the longer will be the period of continued payment of remuneration. After the period has ended, the worker is entitled for half of his/her pay for another 4 weeks. The balance

of 50% is due from the mandatory health insurance as sickness benefit (see Chapter 8).

In case of incapacity to work due to an occupational accident or an occupational disease, workers are entitled to continued payment of full remuneration to the maximum of 8 weeks. Starting from the 16th year of employment, blue-collar workers are entitled to 10 weeks of continued payment; this minimum entitlement is even due if he/she already received continued payment of wages due to sickness in the same year.

Continued payment of full remuneration according to the period worked in an undertaking

Up to 5 years	6 weeks
From 6 to 15 years	8 weeks
From 16 to 25 years	10 weeks
From 26 years onwards	12 weeks

Source: BMASK

Care for family members in case of sickness

White-collar and blue-collar workers as well as civil servants are legally entitled to paid leave if they have to provide care to a family member living in the same household (spouse, life partner, children, adoptive children or foster children, parents or grand-parents) in case of illness. Within a year, a total of one week of paid care leave can be taken. If a child under 12 years of

age, living in the same household, falls ill, the worker is entitled to a second week of care leave per week. If the entitlement is exhausted, the worker may take leave to provide care to the

child without the consent of the employer. Taking leave without the employer's consent for this reason does not constitute a reason for dismissal.

12.10. Labour-law provisions concerning people with disabilities

The Act on the Employment of People with Disabilities (Behinderteneinstellungsgesetz) aims at the sustainable integration of people with disabilities; to achieve this goal, it rests on three pillars. First, it stipulates an obligation of employers to hire people with disabilities, second, the employment contracts of people disabilities enjoy special protection, and third, the Act also includes provisions on extensive financial support for people with disabilities, and especially for their employers.

The Act on the Employment of People with Disabilities defines the status of 'preferred people with disabilities'. This group of persons encompasses people with disabilities, who file an application to this effect, who are citizens of the European Union or the EEA, their degree of disablement is at least 50% and they are in principle available for the labour market. The degree of disablement is determined in an abstract form in a medical opinion that relates to the entire labour market.

Since people with disabilities are more at risk of losing their jobs and may find it more difficult to find new employment due to reduced mobility, 'preferred people with disabilities' (registered disabled persons) enjoy more protection from the termination of employment. 'Preferred people with disabilities' (registered disabled persons) may only be given notice with legal effect if official approval is obtained. In the proceedings for approval all relevant circumstances will be considered on a case-by-case basis and all interests will be weighed to determine whether the disabled person can more reasonably be expected to accept the job loss or whether the employer can more reasonably be asked to continue to employ the disabled worker.

Special protection from termination starts six months after the beginning of employment. The reason for this is to allay fears that such protection may be an obstacle to hiring people with disabilities. In practice, about 80% of all proceedings for

approval to giving a preferred disabled person notice (an annual total of about 600) end with a settlement between the parties. Typically, this would involve continued employment of the disabled person in a different job in the same business or recourse to a subsidy from public funds.

All employers in the private sector and the public service in Austria are obliged to hire one disabled person per 25 workers they employ. Specially disadvantaged groups of people with disabilities (e.g. blind persons, severely disabled older persons, wheelchair-bound persons) are given double weighting.

If an employer fails to fulfil the duty to employ people with disability in whole or in part, a compensation payment (the 'equalisation tax') is due. The compensation is to make up for the disadvantage employers of people with disabilities may have (more absence leave, lower productivity). In 2010 the compensation amounts to EUR 223 per month and obligatory position. The money is paid into a special fund (the Equalisation Tax Fund). It is managed by the Ministry of Labour, Social Affairs and Consumer Protection and is a legal entity in its own right. The money in the fund is earmarked and used primarily for direct benefits to people with disabilities and employers, who hire people with disabilities (mostly individual funding).

For the year 2008, an equalisation tax amounting to EUR 89 million was imposed. As per 31/12/2009, about 94,000 persons belonged to the group of 'preferred people with disabilities' (registered disabled persons). Looking at all employers subject to the obligation to hire people with disabilities, some 101,000 mandatory positions were listed in 2008. Out of these, 66,000 were staffed with 'preferred people with disabilities' (registered disabled persons) (= app. 3% of those gainfully employed). Roughly 35,000 mandatory positions were not staffed. The obligation to hire people with disabilities was thus fulfilled to 66%.

A more recent approach in policies for people with disabilities is the anti-discriminatory approach, which is also reflected in Directive 2000/78/EC. Each individual person with a disability is to be granted enforceable entitlements to non-discrimination on the grounds of disability in the world of employment and beyond. In Austria, this was implemented by means of the 'Disability Equality Package' adopted in 2005. In addition to the existing national legislation and incentives, individuals now i.e. also have the option of asserting civil-law claims against their employers.

In analogy to the transposition of the directive into national legislation in the Act on Equal Treatment (see Chapter 12.11), provisions against the discrimination of people with disabilities in the world of employment were also introduced in 2006. This anti-discrimination law was implemented separately from other groups at risk of discrimination because people with disabilities are not only discriminated against by the acts or omissions of others, as is the case with other

discriminated groups in society. By contrast, rather barriers in the environment often prevent or significantly complicate participation in society (see Chapter 12.12.).

Unlike refraining from discrimination against other specially protected groups of persons, the removal of such barriers may give rise to expenditure; therefore a test of reasonableness was enshrined in the Act on the Employment of People with Disabilities. The provision stipulates that a barrier is discriminatory in nature if its removal is reasonable.

Another special feature in comparison with equal treatment provisions is that conciliation proceedings before the Federal Social Office were introduced; these have to be taken recourse to, before claims for damages are asserted in court. The conciliation proceedings aim at an amicable solution. The proceedings include instruments of alternative dispute resolution, such as mediation by an independent specialist, offered free of charge.

12.11. Equal Treatment

The Equal Treatment Act (Gleichbehandlungsgesetz) prohibits discrimination in employment on grounds of gender. This prohibition also covers indirect discrimination, such as disadvantages for part-time workers in comparison with full-time workers.

An ombudsperson for equal treatment issues is the central point of contact for women who work in the private sector and face a disadvantage in their job because of their gender.

In case of violations of the Equal Treatment Act, an application for review can be filed to the Equal Treatment Commission. If the employer is not willing to take corrective action against a violation of the principle of equal treatment identified by the Equal Treatment Commission, the case may be referred to the Labour and Social Court. Claims resulting from discrimination may also be asserted in court if no review proceedings

were instituted by the Equal Treatment Commission.

Whilst there is an imperative for equal treatment for the private sector, the public sector as an employer is also obliged to take affirmative action and actively promote equal opportunities for women. Women are to be preferred in recruitment for the public service and to be promoted, especially if the share of women in a certain unit is below 40%.

In 2004, equal treatment legislation was reorganized in Austria, in particular to serve the purpose of transposing the two anti-discrimination directives of the EU into national law²¹. 2008 saw the transposition of the EU-directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services.²²

21. Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, which prohibits discrimination on grounds of religion or belief, disability, age or sexual orientation.

22. Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

Austrian law prohibits direct or indirect discrimination on grounds of gender, ethnic origin, religion or belief, age or sexual orientation in the following contexts:

- when starting employment,
- in the determination of remuneration,
- in granting voluntary welfare benefits, which are not part of the remuneration
- in measures of education and continuing education as well as retraining,
- in the context of careers, especially promotions,
- in connection with other working conditions,
- when terminating employment

as well as in the world of employment, including

- access to career counselling, occupational training, continuing education and retraining outside employment,
- involvement in an organisation of employees or employers,
- conditions of access to self-employment.

In addition, direct and indirect discrimination on grounds of ethnic origin is also prohibited in other areas, i.e.

- in social protection, including social security and health care services,
- in the context of social benefits,
- in the context of education,

- in connection with access to and provision with goods and services, which are available to the public, including housing.

Finally, direct or indirect discrimination on grounds of gender is prohibited with regard to access to and supply of goods and services.

The Equal Treatment Act stipulates the following sanctions:

- Compensation of pecuniary damage, i.e. actual damage and lost profits or the creation of a non-discriminatory situation
- and – in both cases – compensation of immaterial damage sustained due to personal impairment.

In case of a termination or non-prolongation of a temporary employment contract on grounds of discrimination, the person affected can contest the termination before court or file for identification of an existing employment contract. The person affected has the option to accept termination or non-prolongation and to file a suit for compensation before court.

Apart from the prohibition of sexual harassment, forbidden discrimination also includes gender-related harassment and harassment due to one of the above-mentioned grounds for discrimination.

The scope of tasks of the Equal Treatment Commission and the Equal Treatment Ombudsperson comprises all the above-mentioned grounds for discrimination; the commission is composed of three panels.

12.12. Mandatory provisions on the equalization of persons with disabilities (under labour law and in other fields)

On 1 January 2006, the 'Disability Equality Package' entered into force (Austrian Federal Law Gazette I no. 82/2005). The package aims to abolish and prevent discrimination in all important areas of life. A further objective is the prevention of discriminatory situations where persons with disabilities cannot equally participate in social life.

In addition to the provisions under European law on equal treatment of persons with disabilities in the world of employment, the Austrian Federal Act on the Equalization of Persons with Disabilities

stipulates the protection against discrimination in 'daily life' for the first time. Furthermore, protection against discrimination shall apply not only to persons with disabilities, but also to close relatives, who experience discrimination due to the disability of a family member.

The Austrian Federal Act on the Equalization of Persons with Disabilities stipulates the prohibition of discrimination of persons with disabilities in the federal administration and as far as access to goods and services is concerned, in case these are available to the public.

The scope of prohibiting discrimination also covers direct discrimination, indirect discrimination (e.g. through barriers), harassment and the instruction to discriminate. If a barrier leads to a disadvantage for an affected person and discrimination is determined in this context, the responsible authorities have to establish whether the removal of such barriers would be tantamount to an unreasonable financial burden. In case it is possible to use public financial support to eliminate the barrier, then this option has to be considered when a test of reasonableness is performed.

The possibility to claim for damages on the grounds of material or immaterial impairment constitutes a core element of the protection against discrimination. However, claims for damages asserted in court have to be preceded by mandatory conciliation proceedings before the Federal Social Office. Lawsuits without preceding conciliation proceedings are not deemed acceptable.

Since 1 January 2006, 720 conciliation proceedings have been held (current data as per 31 May 2010), out of which 660 (91%) were closed on the reference date.

Of the total of 720 proceedings, 400 applied to the Act on the Employment of People with

Disabilities (55%) and 320 to the Act on the Equalization of Persons with Disabilities (45%).

With regard to the 660 closed proceedings, a settlement was reached in 310 cases (47% of closed proceedings), whereas 260 cases ended without a settlement. Request for conciliation was withdrawn in 90 cases (14%).

With regard to barriers in buildings and public transport, transitional provisions govern the field of application of the act, which will be successively extended in scope. All transitional provisions will be phased out by 1 January 2016.

The 'Disability Equality Package' also provides for the creation of the position of an ombudsperson for persons with disabilities. The ombudsperson is not bound by instructions and has the task of counselling and supporting persons with disabilities in cases of discrimination. The ombudsperson is a member of the advisory council on persons with disabilities.

On the occasion of passing of the 'Disability Equality Package' the Austrian sign language was simultaneously enshrined in the Austrian Federal Constitution.

With respect to equalisation law in the world of employment, see the chapter on labour law.



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**FEDERAL MINISTRY OF
LABOUR, SOCIAL AFFAIRS AND
CONSUMER PROTECTION**

Stubenring 1, 1010 Wien

Phone: +43 1 711 00 - 0

www.bmask.gv.at

