



SOCIAL PROTECTION IN AUSTRIA

2014

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Austria pursues comprehensive social policies based on a wide range and dense network of duly coordinated social benefits and services. Compared with other European countries, these benefits and services are very well developed and greatly help to cushion the still-felt impact of the economic and financial crisis as well as its social and economic consequences for those groups of the population that were and are particularly affected by them.

Rising expenditure on labour market and anti-poverty policies in combination with consistently high family, health and pension benefits are major contributors in reducing the risk of poverty and marginalisation in Austria: the percentage of the Austrian population at risk of poverty, which is below the EU average, would be more than three times as high were it not for these social benefits.

Recent policies targeted at social protection have already made a positive impact. In addition, the importance of social services provided to supplement existing cash benefits has grown in the past years. This is particularly true of childcare, nursing care, rehabilitation and labour market integration. Social services thus improve the prospects of participation in society and help stabilise economic and employment development in Austria.

In conjunction with social benefits and services, a comprehensive legal framework on health and safety at work, on reconciling work and family life as well as on non-discrimination in all aspects of life constitutes another major pillar of the Austrian welfare state.

The following publication *Social Protection in Austria* provides an up-to-date overview of the services and benefits of this welfare state. It highlights the basic aspects and benefits of individual systems catering to families, old age, health, unemployment, social distress as well as the development of social spending and its funding.

As Minister of Social Affairs it is essential for me to emphasise at the beginning of this publication the enormous importance of the welfare state for our communal way of life:

- » The welfare state benefits everyone by affording protection in a number of special situations against illness, unemployment and other eventualities.
- » It creates chances of participation for all, thus strengthening the peaceful cohesion of society.
- » It is a positive factor in our surroundings by promoting prosperity and productivity. Unemployment and family or pension benefits are key factors in ensuring stable consumer spending of private households and the future sustainability of government spending.

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

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ABBREVIATIONS

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CHAPTER 1

FEATURES OF SOCIAL POLICY IN AUSTRIA

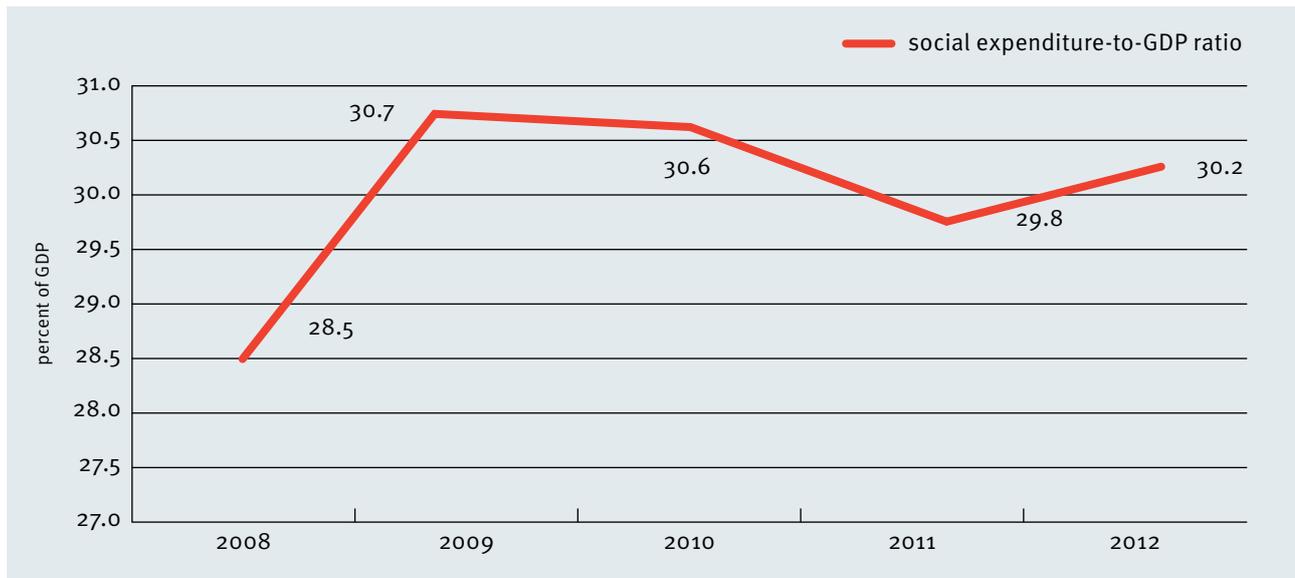
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Social policy greatly helps to avoid and prevent poverty, create conditions for social cohesion and address social, demographic and economic change.

1.1 28% TO 31% OF GDP ARE USED FOR SOCIAL PROTECTION

Social policy is a key instrument in efforts to improve chances in life, alleviate risks and manage crises. Between 1995 and 2012¹ the ratio of social expenditure² varied between 28.2% and 30.7% (see Figure).

Development of social expenditure-to-GDP ratio, 2008-2012



Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

Owing to the political will to cushion the negative consequences of the crisis on people’s standard of living the social expenditure-to-GDP ratio peaked at 30.7% in the crisis year 2009. However, this policy of safeguarding the purchasing power of Austrian households was the basis for an improved economic performance as of 2010, which was well above that of the EU average, thus resulting in a major reduction in the social expenditure-to-GDP ratio from 2009 to 2011. Additional expenditure, primarily on anti-poverty and retirement income provi-

sion programmes, as well as below-average economic growth in 2012 led to a slight increase up to 30.2% of this ratio.

In 2012, roughly EUR 10,700 in public social benefits (monetary and non-monetary benefits) were spent per person living in Austria.

Social benefits have major poverty-preventing effects. If there were no social benefits, and if households earned income exclusively from work and other private earnings, the household incomes of 44% of the population

1 Data ESSPROS 2012 (as at 5 December 2013). ESSPROS – European System of integrated Social Protection Statistics – includes statistics of financial flows in the field of social protection revenue and expenditure. Owing to revisions the data indicated for the previous years may deviate slightly from data published in the past.

2 The social expenditure ratio is the sum total of all government spending on social affairs in a given calendar year expressed as a percentage of the gross domestic product (GDP). Based on this ratio it is possible to identify the weight of social benefits and services within the aggregate economic performance of a country.

would be below the at-risk-of-poverty threshold³ in 2012 according to EU-SILC⁴. Pensions reduced the at-risk-of

poverty rate⁵ to 26% and other social benefits further reduced it to 14% in 2012 (see Chapter 3).

1.2 70% OF SOCIAL EXPENDITURE ARE CASH BENEFITS

Cash benefits outweigh benefits in kind. This is particularly true for family benefits and social benefits for older persons and for those in need of care. But, in the past decade, spending on benefits in kind (in particular

childcare facilities, inpatient and outpatient facilities for people who are sick, disabled or in need of care) has risen disproportionately due to growing demand (see Chapter 3).

1.3 MAJORITY OF CASH BENEFITS ARE SOCIAL INSURANCE AND UNIVERSAL BENEFITS

Eligibility and assessment criteria for social cash benefits for unemployment, old age and invalidity are primarily linked to an individual's previous activity and income status. The percentage share of these social insurance benefits in monetary social benefits was 57% in 2012. Pension benefits disbursed by the statutory pension insurance schemes account for most of the social insurance benefits, and for half of all monetary benefits (see Table on cash benefits by types of benefits in Chapter 3). Benefits awarded irrespective of the current or former income and activity status are called universal benefit entitlements. Such benefits are available, inter alia, under long-term care and family benefit schemes.

In the past 20 years, the proportion of universal benefits in all cash benefits has risen – mainly due to the introduction of childcare allowances – and amounted to roughly 13% in 2012.

Moreover, almost the entire population is covered by health insurance (see Chapter 8).

Cash benefits only available to those in need (to determine eligibility benefits are means-tested, inter alia, against existing income and in part against property) totalled roughly 4% of all monetary benefits in 2012. The rather low percentage share of this type of benefits is due to a comparatively dense network of social insurance and universal benefits, and to the fact that Austria has a low unemployment rate by international standards (see Chapter 11).

Pension benefits for civil servants (17%), cash benefit entitlements under labour law (in particular continued payment of wages in case of sickness; 4%) and company pension schemes (3%) account for most of the remaining 26% of monetary social benefits (see Chapters 2 and 4).

1.4 DIVISION OF RESPONSIBILITIES BETWEEN FEDERAL, LAENDER AND LOCAL GOVERNMENTS

Overall, the Austrian system of social security is characterised by a mix of centralised and decentralised elements, most of them (social insurance and universal benefits) coming under the remit of the central government. The regional entities (Laender, local and municipi-

pal governments) are responsible for part of health care, housing, most of the social services, childcare facilities and the means-tested minimum income scheme (social assistance until 2010).

3 The at-risk-of-poverty threshold (according to EU-SILC) is set at 60% of the weighted median per capita household income of a country. For Austria this threshold is at EUR 1,090 per month in 2012.

4 EU-SILC is the annual EU-wide survey of the income and living conditions of private households in the European Union. Of special interest within EU-SILC – European Union Statistics on Income and Living Conditions – are data on housing situation, expenditure on housing, household appliances and facilities, employment situation and income of household members, but also education, health and satisfaction levels. These data allow conclusions on the living conditions of various population groups, on poverty and social exclusion. These findings constitute an important basis for social policy in Austria and the EU.

5 As the EU-SILC survey switched from polls to administrative data in 2012, the at-risk-of-poverty rate for household incomes is higher than in previous years. This change in methodology has caused a break in series, which is why the figures of previous years cannot be compared with the current outcomes. Based on administrative data, EU-SILC arrives at an at-risk-of-poverty rate of 14.4% for 2012.

1.5 KEY IMPORTANCE OF LABOUR REGULATIONS

The Austrian welfare state demands social responsibility from employers.

Employees have entitlements under labour law relating to work-life balance and a number of social risks.

Employers, in turn, are strongly involved in the relevant decision-making and implementation processes (social partnership). Collective agreements at sectoral level

are binding agreements governing pay and working conditions for all employees in the sector concerned. Legislation seeks to strike a balance between workers' need for protection and employers' request for greater flexibility.

The standard of protection of workers is high (see Chapter 12).

1.6 PARTICIPATION OF NON-GOVERNMENTAL ACTORS IN SOCIAL LEGISLATION

Major actors are Austria's Chamber of Labour (Arbeiterkammer – AK), Economic Chamber (Wirtschaftskammer – WKO) and Chamber of Agriculture (Landwirtschaftskammer – LK) in terms of statutory stakeholders (compulsory membership), as well as the Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund – ÖGB) and the Federation of Austrian Industry (Industriellenvereinigung – IV) in terms of non-statutory stakeholders (voluntary membership). They play a key role in opinion-forming and policy-shaping processes.

The social partners are consulted before social legislation measures are taken, in particular before they are taken at central government level. They try to find consensus-based solutions, which frequently prepare the ground for law-making. The governing bodies of the social insurance

institutions, the public employment service and other entities are composed either in their entirety or in great part by representatives of social partner organisations.

Other stakeholder groups, such as those representing the interests of senior citizens and people with disabilities, as well as non-governmental organisations (NGOs) active in the field of social welfare have gained influence in recent years. Experts (not only those working in social partner organisations) are increasingly being involved in the activities of reform commissions and other bodies to help prepare decision-making and implementation processes.

Last but not least, a powerful impetus for the development of Austria's social security system is provided by the institutions of the European Union.

CHAPTER 2

STRUCTURE OF SOCIAL PROTECTION SYSTEMS

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2.1 OVERVIEW

Social protection systems in Austria can be broken down in the following areas:

Structure of social protection systems in Austria

Social protection systems	
Social insurance	social pension, health and work accident insurance
Unemployment insurance (under the responsibility of the public employment service)	primarily covers unemployment benefits, unemployment assistance and active labour market policies
Universal schemes (benefits granted to the entire resident population irrespective of current or former income and activity status)	primarily family allowance and tax credit for children, childcare allowance, long-term care system, and, by their de facto effect, the benefits in kind offered by the health care system
means-tested benefits (benefits with means-test on income)	primarily include minimum income levels under the pension insurance scheme (equalisation supplements), unemployment assistance under unemployment insurance, the means-tested minimum income scheme and grants to pupils and students
Social protection for civil servants	special pension law
Social compensation systems	primarily for victims of war, military service, crime and vaccination-induced disabilities
Protection under labour law	e.g. continued payment of wages in case of illness
Occupational pension schemes	e.g. defined pension funds and direct defined benefit programmes
Social services	e.g. homes for seniors and nursing homes, extramural services, counselling services for individuals (in cases of violence, substance abuse, homelessness)

Source: Federal Ministry of Social Affairs; March 2014

2.2 SOCIAL INSURANCE

Social insurance in Austria is based on the principles of mandatory insurance, solidarity⁶ and autonomy. It is primarily financed by employers' and employees' contributions under the pay-as-you-go system.

Social insurance in the stricter sense is composed of three schemes:

- » pension insurance
- » health insurance
- » work accident insurance.

A total of 22 social insurance institutions provide health, pension and work accident insurance cover. They are organised in an umbrella organisation called 'Main Association of Austrian Social Insurance Institutions' (Hauptverband der österreichischen Sozialversicherungs-

träger, see Figure). Important functions of this association include:

- » long-term planning
- » drafting guidelines (for uniform implementation)
- » central data management
- » conclusion of contracts with physicians, dentists, etc.
- » publication of a register of medicinal products (Heilmittelverzeichnis)
- » comparison of indicators between insurance institutions
- » public representation of social insurance institutions
- » liaising at intergovernmental level.

⁶ Solidarity (or the principle of solidarity) means striking a balance between those in poor health and those in good health, between young and old, between large families and singles, between higher and lower paid workers, between economically active individuals and retirees. There is no selection of risks, no age limit and no termination of insurance cover as a result of benefits being too high.

The social insurance institutions are organised according to fields of activities, occupational groups and/or regions. The most important institutions are the pension insurance institution (Pensionsversicherungsanstalt – PVA); the nine regional health insurance funds (Gebietskrankenkassen – GKK) in the Laender; the general work

accident insurance institution (Allgemeine Unfallversicherungsanstalt – AUVA); the social insurance institutions for the self-employed, i.e. for trade and business and for farmers (SVAGW and SVB); and the insurance institution for public-service employees (Versicherungsanstalt der öffentlich Bediensteten – BVA).

Organisation chart of Austrian social insurance institutions

Main Association of Austrian Social Security Organisations			
Work Accident Insurance	Health Insurance		Pension Insurance
general work accident insurance institution	9 regional health insurance funds	6 company sickness funds	pension insurance institution
social insurance institution for the self-employed in trade and business			
social insurance institution for farmers			
statutory insurance institution for railway and mining workers			
statutory insurance institution for public-service employees			statutory insurance institution for Austrian notaries

Source: Main Association of Austrian Social Security Organisations; March 2014

The individual social insurance institutions are managed by self-governing 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 largely restricted to the management of the institutions' own facilities.

With the exception of some minor groups, almost the entire active population is covered by these social insurance institutions. (Alongside the statutory insurance institution for public-service employees, there are special health care and work accident schemes for civil

servants at Laender and local government levels. Technically speaking, these schemes are no social insurance institutions.) In recent years, social insurance cover has been widened to include a large part of non-standard employment relationships⁷ under compulsory or voluntary schemes providing benefits against payment of contributions.

As health insurance cover also extends to family members of the insured party, Austria's social insurance system provides largely comprehensive health care for the entire population (see Chapter 8).

2.3 UNEMPLOYMENT INSURANCE, PUBLIC EMPLOYMENT SERVICE

Unemployment insurance (UI) is not under the umbrella of the Main Association of Austrian Social Insurance Institutions. It is managed by the public employment service (German acronym AMS, but for ease of understanding the English acronym PES will be used below), which is also responsible for measures of active labour market policy. The PES is a three-tiered system comprising one federal organisation, nine Laender and 99 regional organisations. The social partners' involvement in PES activities extends across all three levels, where representatives of Austria's Economic Chamber (WKO), Chamber of Labour (AK), Austrian Trade Union Federation (ÖGB) and Federation of

Austrian Industry (IV) play a major role in labour market policy design (work programmes of the Laender) and in supervising the PES organisation (controlling). An administrative board is established at the federal level, with board members including employees' and employers' representatives as well as government representatives. This specific composition of PES bodies aims to ensure that the most important stakeholders of the labour market are involved in Austrian labour market policy making. Executives are responsible for the implementation of PES functions: the chairman of the PES board at federal level, the managers of the PES's Laender offices at Laender level,

7 Non-standard employment relationships refer to marginal part-timers, quasi-freelancers, and new self-employed.

and the heads of the PES's regional offices at regional level. The executives in question are assisted by their organisational units in implementing labour market policies.

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

2.4 BENEFITS FOR THE ENTIRE RESIDENT POPULATION (UNIVERSAL SCHEMES)

The three major cash benefits where entitlement is independent of activity and income status are the following:

- » family allowance and tax credit for children
- » childcare allowance, and
- » long-term care benefits.

Health insurance also covers co-insured persons and persons on means-tested minimum income, thus, it largely meets the criteria of a universal system.

FAMILY ALLOWANCE AND TAX CREDIT FOR CHILDREN

Family allowances are universal cash benefits for children irrespective of the recipients' income levels. The amount of family allowances primarily depends on the age and number of children in a family. It is financed by the Family Burdens Equalisation Fund (FLAF) and disbursed by the tax offices. Most of the FLAF's resources are derived from wage-related contributions and some from general tax revenue.

Family allowances are supplemented by a uniform tax credit, which may also be paid out as a negative tax. This tax credit is due for all children irrespective of the parents' activity status (see Chapter 9).

CHILDCARE ALLOWANCE

All mothers and fathers are entitled to childcare allowance: depending on the chosen option, it may be claimed for the first 12 months (14 months if also claimed by the second parent) to 30 (36) months of the child. Disburse-

ment is in the hands of the health insurance funds. The allowance is financed by the Family Burdens Equalisation Fund (see Chapter 9).

LONG-TERM CARE BENEFITS

All persons in need of (nursing) care are eligible for long-term care benefits. The amount of long-term care benefits will depend exclusively on the extent of care needed. The system is primarily run by five decision-making bodies at the federal level. Long-term care benefits are funded from tax revenue (see Chapter 10).

HEALTH INSURANCE

Health insurance covers all employees, their family members and most of the recipients of social benefits. 99% of the population are currently covered by social health insurance schemes. The schemes are primarily funded by wage-related contributions made by employers and employees.

Claimants of means-tested minimum income are subject to health insurance unless they are already covered by health insurance. Registration of these minimum income claimants with the statutory health insurance and payment of contributions is in the hands of the Laender.

Alongside social health insurance schemes, Austria's territorial (i.e. federal, Laender, local) authorities are major players in this field, specifically in terms of providing and co-financing inpatient care. Hospitals are financed from health insurance contributions and general tax revenue (see Chapter 8).

2.5 MEANS-TESTED BENEFITS

As indicated by their name, 'means-tested benefits' primarily refer to benefits involving a means test on income. Social pension insurance provides for means-tested minimum benefits. Pensions are topped up with an equalisation supplement to reach a threshold value (called 'equalisation supplement reference rate').

Under the unemployment insurance system, the long-term unemployed are entitled to unemployment assistance (Notstandshilfe) if they are financially destitute.

However, they are not entitled to any minimum level of benefits.

A modern version of the former 'extramural' social assistance scheme, the means-tested minimum income scheme is a subsidiary safety net of last resort within the social security system. With the introduction of the means-tested minimum income scheme, the same minimum standards, i.e. minimum benefit thresholds, are ensured for all claimants, although the Laender may

award additional benefits going beyond these minimum standards.

Other means-tested benefits of note are housing assistance and student grants.

With the exception of unemployment assistance, all means-tested benefits are financed from tax revenue (see Chapter 11).

2.6 SOCIAL PROTECTION FOR CIVIL SERVANTS

An increasing number of public-service employees (contract staff) are subject to the same social insurance legislation as private sector employees.

Tenured public-service employees (civil servants), in turn, are subject to special regulations in certain areas of social protection. These regulations differ according to employer, i.e. federal, Laender, local governments etc. What civil servants have in common is that they are neither covered by unemployment nor by social pension insurance. Rather, they accrue direct entitlements vis-à-vis their employers.

Under the 2004 pension reform, the provisions of the statutory pension insurance system will increasingly apply to civil servants under the age of 50 (2005).

Pensions of civil servants given tenured status as from 1 January 2005, and of civil servants born on or after 1 January 1976, will be assessed in accordance with the same rules as the ones used under the statutory pension scheme (APG/ASVG).

Most civil servants are covered by social health insurance, i.e. by the insurance institution for public-service employees (Versicherungsanstalt der öffentlich Bediensteten – BVA), some of them are covered by special health care schemes.

Part of pensions and health care benefits for civil servants are financed by the latter's contributions, but most of the money comes from the state budgets of territorial authorities (see Chapter 4).

2.7 SOCIAL COMPENSATION SYSTEMS

Special social protection systems are in place for risk situations for which the government takes special responsibility. They provide benefits (primarily pension benefits) to victims of war, military service, Fascism, crime or vaccinations. These schemes are managed by

the Federal Ministry of Labour, Social Affairs and Consumer Protection and/or the Federal Social Office (an agency subordinate to the ministry) and its nine Laender offices. Social compensation systems are funded exclusively 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 social policy in Austria. They include, inter alia, financial support in case of illness and pregnancy, employee income provision funds, special provisions for working parents (e.g. paid care leave), dismissal protection for certain groups, periods of notice, rules on working hours and rest periods, etc.

Collective agreements are sustained by law and guarantee minimum pay at sectoral level. In an in-principle agreement the social partners resolved to increase any minimum wages of under EUR 1,000 (14 times per year) to at least EUR 1,000; this floor level was fully met or even exceeded by 1 January 2009 (see Chapters 11 and 12).

OCCUPATIONAL PENSION SCHEMES

Occupational pension schemes are called 'the second pillar' of retirement income provision in Austria. In general, they refer to pensions funded by employers to supplement the statutory schemes.

Austria's Occupational Pension Act (Betriebspensionsgesetz – BPG) governs the protection under labour law of benefits and entitlements accrued under retirement, invalidity and survivors' pension commitments (defined benefit schemes) involving four types of defined occupational benefit schemes:

- » defined pension schemes managed by domestic or foreign pension funds
- » defined benefit schemes managed by occupational group insurance schemes (Betriebliche Kollektivversicherung – BKV)

- » direct defined benefit programmes
- » life insurance schemes (see Chapter 4).

Based on ESSPROS data, WIFO estimates the annual volume of employers' contributions to occupational pension schemes to total roughly EUR 2.8 billion and the annual volume of occupational pension benefits to total roughly EUR 2.1 billion in 2012.

2.9 SOCIAL SERVICES

Social services accounted for EUR 7.7 billion in 2012 (with the exception of health care), i.e. 9% of social benefits or approx. 2.5% of GDP. The major areas of social services include labour market policy measures, non-school childcare, homes for the elderly and nursing homes, day-structuring and extramural services, housing and/or employment schemes for people with special needs, as well as counselling and assistance to individuals with special problems (e.g. women exposed to domestic violence and their children, drug-dependent or drug-addicted persons, homeless persons or persons at risk of losing their homes, persons released from prison or asylum seekers).

According to ESSPROS data for 2012, EUR 1.2 billion were spent on services related to unemployment, EUR 2.2 billion on services related to children and families, EUR 1.9 billion on extramural, intramural and daycare services for the elderly and those in need of nursing care, EUR 1.5 billion on facilities for people with disabilities and EUR 0.9 billion on other social services.

With the exception of labour market-related measures, responsibility for most of the social services is in the hands of Laender, local and municipal authorities.

Whereas individuals enjoy legal entitlements to most cash benefits and health care services, they enjoy no such entitlements to the majority of social services.

Regional differences exist in the quality and quantity of services and their organisational delivery. This is partly due to the fact that Austria has one Land (Vienna) that is fully urban in structure, whereas the other eight Laender only have a few smaller urban areas.

Territorial authorities run some of the social services themselves, while others are outsourced to non-profit organisations, associations or private providers. Overall, the public sector plays a dominant role in the areas of childcare, homes for the elderly and nursing homes.

Other providers are private and non-profit organisations, including large organisations with a long-standing tradition in this field (church-related associations, associations affiliated with political parties, other supra-regional welfare organisations) and numerous smaller entities.

CHAPTER 3

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3.1 OVERVIEW

In 2012, 30% of the annual economic value added was spent on public social and healthcare benefits⁸ (with healthcare accounting for one quarter and social benefits for three quarters of expenditure).

67% of social expenditure are cash benefits, 30% are benefits in kind, with other social protection spending accounting for the remaining percentage.

Accounting for more than half of social expenditure, social insurance benefits make up the majority of benefits in Austria. Although universal benefits increased

in the past decade (primarily owing to the introduction of new benefits: long-term care benefits, tax credits for children, childcare allowances), the percentage share of social insurance benefits has continued to rise.

Taken together, more than one third of social welfare systems is financed from budget appropriations, almost another third through private-sector employers' contributions, 4% through public-sector employers' contributions and 26% through contributions paid by the insured.

3.2 DEVELOPMENT OF SOCIAL EXPENDITURE AND OF THE RATIO OF SOCIAL EXPENDITURE

During the first half of the 1990s the social expenditure-to-GDP ratio rose significantly (from 26.1% to 28.8% between 1990 and 1995) due to the extension of social benefits. Between 1995 and 2000 it dropped to 28.3%,

this decline being primarily due to an over-proportionate growth of GDP and to fiscal consolidation in the field of social welfare. Although fiscal consolidation continued in 2000 and later years, major improvements were

Development of social expenditure and of the social expenditure-to-GDP ratio¹, 1990-2012

year	social expenditure EUR bn	GDP EUR bn	ratio of social expenditure (social expenditure in % of GDP)
		136	26.1
1995	50.4	175	28.8
2000	59.0	208	28.3
2001	61.3	214	28.6
2002	63.9	221	29.0
2003	66.3	225	29.5
2004	68.3	235	29.1
2005	70.7	245	28.8
2006	73.4	259	28.3
2007	76.4	274	27.9
2008	80.7	283	28.5
2009	84.8	276	30.7
2010	87.3	285	30.6
2011	89.2	299	29.8
2012	92.7	307	30.2

Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

1 Due to changes in the computation of social expenditure and GDP the figures may differ slightly from those published in the past.

8 The description of social expenditure is based on the ESSPROS methodology (European System of integrated Social Protection Statistics) agreed between EUROSTAT and EU member states. Under ESSPROS social expenditure only includes expenditure of a redistributive nature (i.e. no private expenditure, no saving and life insurance schemes, no private co-payments, no occupational social benefits of a non-redistributive nature). Moreover, clear classifications are provided to distinguish between social expenditure and other public systems (e.g. tax redistribution which is not primarily induced by social considerations, public education systems, housing benefits, etc.).

achieved by 2003, including improvements in family-related benefits and social services. In turn, this resulted in an increase – further enhanced by a slowdown in GDP growth and additional spending made necessary by the situation in the labour market – of the social expenditure-to-GDP ratio to 29.5%. The ratio of social expenditure dropped back to 27.9% by 2007, which was primarily due to higher economic activity. It increased slightly in 2008 (28.5%), whereas in the crisis year of 2009 it jumped to 30.7%.

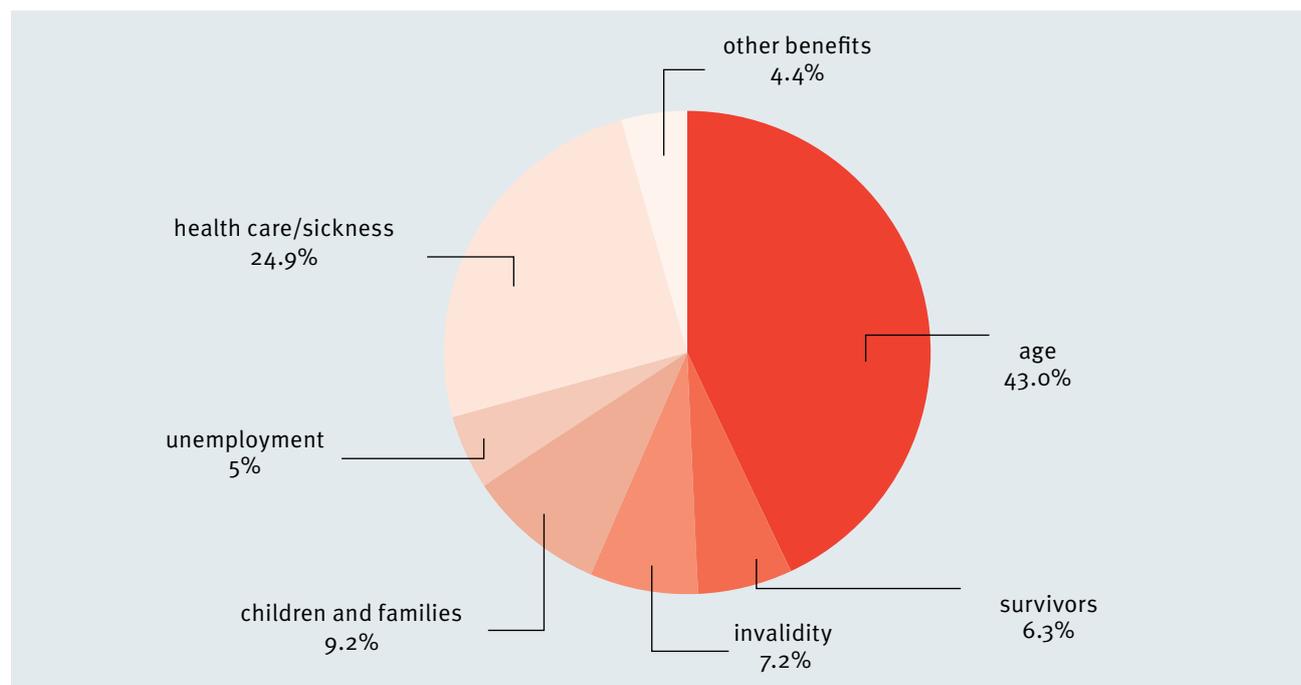
Crisis-related costs could be reduced only gradually, and with economic activity picking up very slowly the social expenditure-to-GDP ratio recorded only a slight drop to 30.6% in 2010, but continued to drop in 2011 to 29.8% owing to the successful mitigation of the impact of the crisis on the labour market. Below-average economic growth and increasing expenditure, primarily on anti-poverty and retirement income provision programmes, resulted in the social expenditure-to-GDP ratio rising again slightly to 30.2% in 2012.

3.3 BREAKDOWN OF SOCIAL EXPENDITURE: CASH AND IN-KIND BENEFITS

Broken down according to functions, pensions, long-term care benefits and social (care) services for the elderly account for half of social expenditure, healthcare

for one quarter, family benefits for almost 10%, invalidity-related benefits for 7% and unemployment and labour market-related benefits for 5%.

Social benefits according to functions, 2012



Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

Cash benefits accounted for roughly 70% of social benefits (administrative costs not included) in 2012. More than two thirds of cash benefits are old-age benefits (pensions, long-term care benefits, etc.), almost one tenth are family transfer benefits and roughly 5% each are invalidity pensions for persons below the age of 60/65, unemployment benefits and sickness-related cash benefits (continued payment of wages in case of sickness, sickness benefits).

Outpatient and inpatient care accounts for almost three quarters of benefits in kind. The proportion of in-kind benefits greatly varies by area, ranging from 86% in healthcare benefits and 5% in old-age and survivors' benefits. Benefits in kind available in family, invalidity and unemployment contexts account for roughly one quarter of overall expenditure in these fields.

Total of social benefits: cash and in-kind benefits, 2012

cash and in-kind benefits	EUR bn	in % of total social expenditure
old age	39.9	43.0
survivors	5.8	6.3
invalidity/disability	6.7	7.2
family/children	8.5	9.2
unemployment	4.7	5.0
healthcare/sickness	23.1	24.9
other areas ¹	1.5	1.6
other expenditure ²	2.6	2.8
total	92.7	100

Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

1 Other areas mainly include social assistance as well as housing and rent benefits.

2 administrative costs and all other expenditure which cannot be allocated to any of the above categories

Public spending on mobile and residential care services for the elderly is low in comparison with cash benefits for this group. Overall, the sum total of long-term care benefits (EUR 2.1 billion) disbursed to older people (over 59/64) is higher than public expenditure on mobile and residential care services for the elderly (EUR 1.9 billion). One of the tenets of Austrian policy for seniors is to grant transfer benefits to older people in need of care to enable them to choose the kind of care they consider optimal for themselves. In spite of this policy approach, spending on mobile and residential services for older people has risen disproportionately since 1990.

Almost one quarter of benefits available to the unemployed are benefits in kind (measures to promote employment), with cash benefits not included, as the latter

form part of activating policies (e.g. part-time allowance for older workers, subsistence allowance, cash benefits to support labour foundation programmes). The proportion of activating benefits in all benefits for unemployed workers rose significantly between 1995 and 2008, but has decreased slightly since then and remains comparatively constant (23%) as of 2009.

The percentage of family benefits in relation to GDP is high in comparison with other EU member states, which is due to the related cash benefits (family allowance, tax credit for children, maternity allowance, childcare allowance). Public funds available in 2012 for childcare services amounted to roughly half of the sum total of family allowances and tax credits for children.

3.4 BREAKDOWN OF CASH BENEFITS

Social insurance benefits make up most of these benefits. They account for 57% of cash benefits followed by civil servants' pensions (17%). Universal benefits account for 13%, employees' entitlements under labour law (continued payment of wages in case of sickness) for 4%, means-tested cash benefits for 5% and company pension schemes for 3%.⁹

The percentage share of universal benefits has risen slightly since 1990 (due to the introduction of long-term care benefits, tax credits for children and childcare allowances) and was 13% in 2012, while the proportion

of social insurance benefits has risen by roughly four percentage points over the same period. The percentage shares of occupational pension schemes have gone up as well (from 2% to 3%), and so have those of means-tested benefits (by half a percentage point).

The proportion of civil servants' pensions and of entitlements under labour law dropped by three or two percentage points, respectively. Another drop was recorded for the proportion of social compensation benefits from roughly 2% to under 1%.

⁹ The remainder relates to other benefits.

Cash benefits by types of benefits, 2012

	in EUR bn	in %	
		of total cash benefits	of GDP
benefits under social insurance schemes	35.4	56.6	11.5
pensions under statutory pension insurance ¹	31.5	50.4	10.3
cash benefits under health insurance ²	1.0	1.6	0.3
cash benefits under work accident insurance ³	0.6	1.0	0.2
cash benefits under unemployment insurance ⁴	2.3	3.7	0.7
universal benefits	8.2	13.1	2.7
FLAF benefits ⁵	4.3	6.9	1.4
tax credit for children	1.3	2.1	0.4
long-term care benefits ⁶	2.6	4.2	0.8
means-tested benefits	2.8	4.5	0.9
pension insurance (equalisation supplements)	1.0	1.6	0.3
unemployment insurance (unemployment assistance)	0.9	1.4	0.3
FLAF (supplement to childcare allowance and compensation for families in distress)	0.0	0.0	0.0
Laender and local authorities ⁷	0.6	1.0	0.2
student grants ⁸	0.2	0.3	0.1
civil servants' pensions	10.7	17.1	3.5
social compensation⁹	0.2	0.3	0.1
labour law entitlements¹⁰	2.6	4.2	0.8
voluntary social benefits from companies¹¹	2.1	3.4	0.7
other cash benefits¹²	0.4	0.6	0.1
total	62.5	100	20.4

Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

1 all pensions under statutory pension insurance, exclusive of equalisation supplements

2 sickness pay, maternity allowance

3 disability pensions and survivors' pensions under work accident insurance

4 unemployment benefits and other non-means-tested cash benefits

5 family allowance, childcare allowance, advances on alimony payments

6 federal benefits and Laender benefits

7 cash benefits under means-tested minimum income scheme

8 students' and pupils' 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 mainly insolvency contingency fund, Heavy Night Work Act, bad weather compensation, cash benefits disbursed by various state assistance funds

Cash benefits accounted for EUR 62.5 billion and in-kind benefits for EUR 27.6 billion of social expenditure in Austria in 2012. 70% of social expenditure are cash benefits.

Whereas cash benefits mainly serve to provide income substitution during periods of inactivity or incapacity to work (old age, invalidity, unemployment, etc.) and/or support during periods of additional financial burden (children, need of nursing care), benefits in kind are primarily

intended to provide appropriate programmes and services when the need for nursing and care arises (sickness, long-term care needs, disability, childcare outside the home). In a number of situations that deserve protection preference of cash over in-kind benefits or vice versa will depend on the values shared by society. For instance, should the burden created by the care needs of children or of individuals requiring long-term care be covered by cash benefits paid directly to those concerned or their

households, or rather by increased funding of care facilities? Governments usually apply a mix of both types of

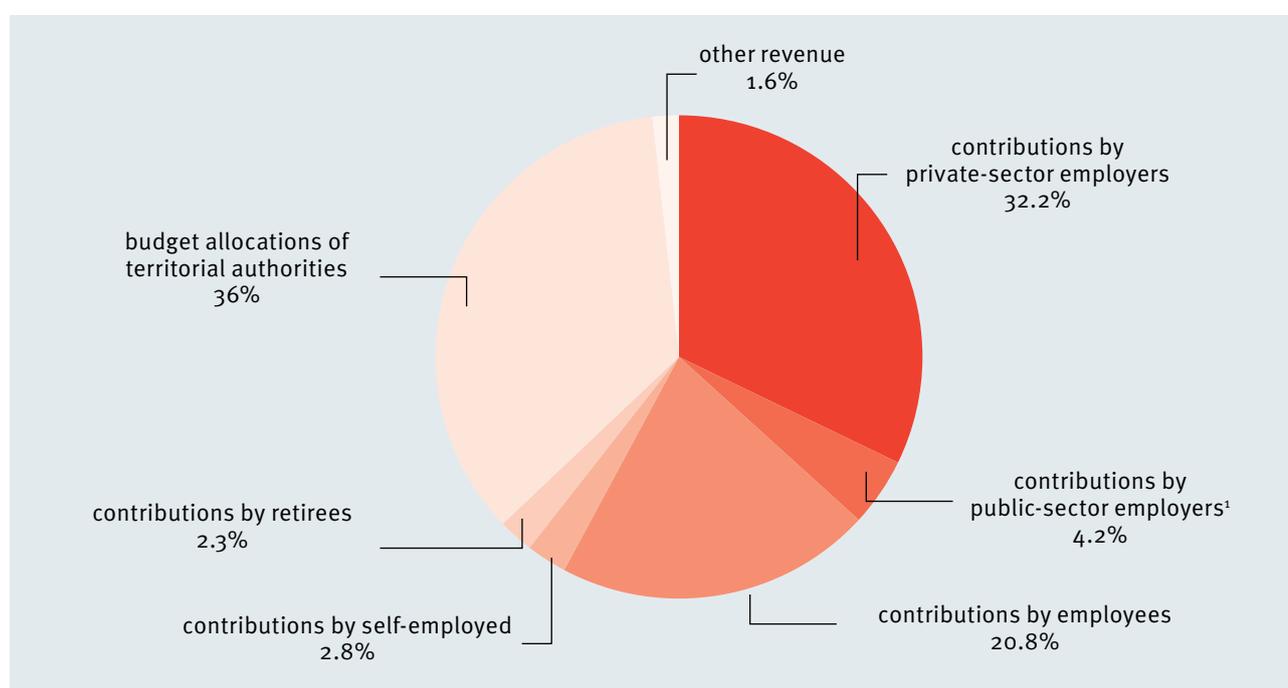
benefits. In comparison to other EU countries, Austria tends to prioritise cash over in-kind benefits.

3.5 FINANCING OF SOCIAL BENEFITS

A look at the overall picture of Austria's social welfare schemes shows that, in 2012, EUR 33.3 billion were financed from budget appropriations of territorial authorities, EUR 29.8 billion from contributions by private-sector employers, EUR 24 billion from contributions by insureds¹⁰, and EUR 4.2 billion from contributions by public-

sector employers. Since 1990 the percentage share of employers' contributions has dropped by two percentage points, whereas the percentage share of insureds' contributions has risen by more than one percentage point. The proportion of state budget appropriations has also gone up.

Financing of social benefits, 2012



Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

¹ including „assumed“ contributions by the government: it is assumed that the government pays a contribution rate to retirement income provision schemes of civil servants equivalent to the rate paid by private-sector employers.

Below the major social welfare systems are grouped by their financing structure:

The largest components of social benefits funded exclusively by budget appropriations include **healthcare benefits** going beyond health insurance benefits (mainly inpatient care), social services of the Länder and local authorities, long-term care benefits, tax credits for children and means-tested benefits (unemployment assistance for the long-term unemployed not included).

More than two thirds of **social insurance benefits** (with the exception of work accident insurance), such as social health and pension insurance, are financed from largely equivalent contributions paid by employers and insureds. **Unemployment insurance** is funded in equal shares (50:50) by employers and employees. The contributions of insureds to health insurance (including self-employed and retirees) are significantly higher than those of employers (46% contributions by insureds, 26% contributions by employers).

¹⁰ EUR 19.2 billion by employed insureds, EUR 2.6 billion by self-employed contributions, and EUR 2.2 billion by pensioners' contributions

The following benefits are exclusively or primarily funded by employers: benefits under labour law (in particular continued payment of wages for up to a certain period of sickness: 100%), benefits paid in case of an employer's insolvency, company pension schemes, benefits in case of accidents at work, and large areas of family-related cash benefits.

Transfers between benefit schemes constitute another major funding source for pension and health insurance. They include contributions to health and pension insurance by the unemployment insurance scheme on behalf of its beneficiaries. The Family Burdens Equalisation Fund (FLAF) reimburses the relevant providers for their expenditure on family policy benefits.

3.6 SOCIAL SECURITY CONTRIBUTIONS

In 2014, 37.85% of employees' contributory wages are paid into social insurance schemes: 22.8% into pension insurance, 7.65% into health insurance, and 1.4% into work accident insurance. Alongside social insurance contributions, 6% of wages are paid into the unemployment insurance scheme.

These contributions are withheld up to a certain wage level. This so-called ceiling on insurable earnings (Höchstbeitragsgrundlage) is EUR 4,530 a month (14 times a year) for employees in 2014. This roughly equals 2.5 times the median net income of employees (see following table).

Contribution rates for employees, 2014, in % of contributory wages

	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
work 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
heavy night work ¹	3.70	3.70	0.00
employee income provision ('new severance pay scheme') ¹	1.53	1.53	0.00
continued pay in case of insolvencies	0.55	0.55	0.00
Family Burdens Equalisation Fund	4.50	4.50	0.00
housing benefits	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 47.40% and 54.03%	between 29.20% and 35.13%	between 18.07% and 18.90%

Source: Main Association of Austrian Social Security Organisations, Austrian Chamber of Labour, Federal Ministry of Social Affairs; February 2014

¹ for certain groups of workers only

Contributions to be paid exclusively by employers are those securing continued pay in case of insolvencies (0.55%) and contributions to the Family Burdens Equalisation Fund (4.5% of payroll total). Employers pay an additional 1.53% of the payroll total into employee income provision schemes and for heavy night work and for the bad weather compensation fund for construction workers, and the local tax contributions.

Other wage-related employers' and employees' contributions include those for housing benefits.

The contributions to the Chamber of Labour are paid only by the employees. All wage-based contributions taken together total between 47% and 54% of a worker's pay. Employer's contributions range between 29% and 35%, employee's contributions between 18% and 19%.

Special contribution rates apply to the self-employed and to civil servants. Pensioners under pension insurance are liable to pay a health insurance contribution of 5.1%.

CHAPTER 4

OLD-AGE PENSIONS

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4.1 OVERVIEW

The major system for the provision of retirement income is the statutory pension scheme, which covers all former employment participants, with the exception of civil servants. The statutory pension insurance scheme includes 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 victims of accidents at work (disability pensions). The benefits from these pension-like schemes are usually paid as supplements to pensions under the statutory or civil servants' schemes.

Within the framework of statutory employee income provision funds (Mitarbeitervorsorge), the amounts accumulated by employers on behalf of each of their employees can be drawn, among others, 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 statutory scheme (see Chapter 2.8).

Income support to ensure the subsistence of people in need who have no or insufficient entitlements under the schemes mentioned above and/or no other income (e.g. alimony, income from work, etc.) is provided by the means-tested minimum income scheme, which replaces the former social assistance scheme and was introduced in autumn 2010.

According to ESSPROS, EUR 46.1 billion were spent on all pensions and pension-like benefits as well as company pensions in 2012 (see table below). This corresponds to 50% of social expenditure or roughly 15% of GDP. The statutory pension scheme accounts for 70% of pension expenditure, civil servants' pensions for 23%, pension-like benefits under work accident insurance for roughly 1%, company pensions for 5% and benefits paid under special laws on cash-income support for less than 1%.

In the past decade, the greatly varying retirement income provision schemes under statutory pension and civil servants' pension insurance underwent fundamental reforms. With the Act on the Harmonisation of Austrian Pension Systems (Pensionsharmonisierungsgesetz), which took effect on 1 January 2005,

Pension expenditure¹ according to institutions, 2012

	EUR billion
statutory pension insurance scheme	32.5
civil servants' pensions	10.7
accident insurance	0.6
benefits under cash-income support laws	0.2
company pensions ²	2.1
total	46.1

Sources: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

1 benefits in kind, administrative costs and re-routed social contributions not included

2 direct pension promises, disbursements of pension funds, pension-like benefits of life insurance schemes

uniform pension law was introduced for all labour force participants (blue-collar and white-collar workers, farmers, self-employed workers in trade or business, federal civil servants).

The goal of uniform pension law for all insured labour market participants is to provide, upon accrual of 45 insurance years, monthly benefits totalling 80% of average lifetime monthly earnings from the age of 65. A transparent pension account is established for every insured worker. It lists the contributions paid and valorised, as well as the entitlements accrued (e.g. periods of child-rearing, military or civilian service). Entitlements shown in the pension account cannot be subject to any interference.

With the introduction of the new pension account (initial credit) in 2014, the insurance periods accrued by the end of 2013 by insurees born 1955 and later will be shown by a single euro amount which is allocated to the pension account as an initial credit. Computation of this initial credit (Kontoerstgutschrift) is governed by a variety of legislation, with previously applied types of pension calculation being taken into account. This approach meets the requirements of transparency and traceability on the one hand, and creates incentives for remaining economically active for a longer period of time on the other.

The following sections present more details about old-age pensions under the statutory pension insurance

scheme, the new pension account, the civil servants' scheme, the social compensation schemes and occupational pension schemes¹¹.

4.2 STATUTORY PENSION INSURANCE¹²

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

4.2.1 FINANCING

The statutory pension insurance is primarily financed under the pay-as-you-go system ('intergenerational contract'). This means that the benefits paid under pension insurance in any given calendar year are financed from the contributions made by 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 2013, 3,677,943 persons were compulsory members of this social pension insurance system (as a rule population in employment), and 2,299,114 persons received pension benefits under this scheme, i.e. a ratio of 1,000 pension insurance contributors to 625 retirees. The contributions by insurees are supplemented by transfers from other schemes (e.g. unemployment insurance¹³, Family Burdens Equalisation Fund – FLAF) and a contribution from the federal budget. The federal government's contribution covers the amount by which spending of each social pension insurance institution exceeds its revenue (default guarantee). The public purse paid 23.2% of the money spent by social pension insurance in 2012 (under the default guarantee including reimbursement for equalisation supplement and compensation for prisoners of war). In 2014, the contribution rate to pension insurance under the General Social Insurance Act (ASVG) is 22.8%.¹⁴

Total expenditure and proportion of federal funds¹ according to pension insurance institutions, 2012, EUR billion

	total expenditure of pension insurance	default guarantee	reimbursement for equalisation supplement	federal funds in % of total expenditure
pension insurance of employees	30.4	4.8	0.7	18.1
pension insurance of self-employed	5.3	2.5	0.3	52.4
pension insurance total	35.7	7.3	1.0	23.2

Sources: Main Association of Austrian Social Security Organisations; Financial Statistics 2012. Calculations of Federal Ministry of Social Affairs; February 2014

1 default guarantee and reimbursement for equalisation supplement

11 Employee income provision funds, which partly serve company pension purposes, are described in Chapter 12 (entitlements under labour law). Chapter 5 presents survivors' pensions and Chapter 6 invalidity pensions, which largely also concern people aged 60/65 and above.

12 Detailed information can be found in the brochures of the pension insurance institution: www.pensionsversicherung.at > Informationsmaterial > Download (in German only)

13 Periods of unemployment and/or child-rearing are considered in calculations of pension amounts.

14 For more detailed information on contribution rates see section 3.6.

4.2.2 TYPES OF BENEFITS UNDER PENSION INSURANCE SCHEMES

Apart from old-age pensions, the pension insurance system also covers benefits for survivors and invalids. In addition, it provides funds to health-care measures aimed at preventing early invalidity.

At the end of 2013, 61% of pensioners were women. This large proportion of women is primarily due to the high number of widows' pensions. But the share of women in old-age pension is also larger due to women's lower retirement age and higher life expectancy, so they receive pension benefits for a much longer period than men.

Pensioner figures for the statutory pension insurance scheme, in thousands, December 2013

	total	women	men
invalidity pensions¹	204	63	141
regular old-age pensions ²	1,469	847	622
early retirement on old-age pensions due to unemployment	0	0	0
early retirement on old-age pensions due to long insurance periods	8	5	3
early retirement on old-age pensions due to reduced capacity to work	0	0	0
part-time pension	0	0	0
pensions for persons with long insurance periods	91	41	49
corridor pension	15	0	15
pensions granted to workers in demanding jobs	4	0	4
all old-age pensions	1,587	893	694
widows'/widowers' pensions	460	417	43
orphans' pensions	48	24	24
all survivors' pensions	511	444	67
pensions in total	2,299	1,397	902

Source: Federal Ministry of Social Affairs, monthly statistics; February 2014; inkl. PI for Austrian Notaries

¹ invalidity pensions till 60th/65th year

² including invalidity pensions from 60th/65th year

64% of pensions are regular old-age pensions, 5% are old-age pensions under early retirement, 22% are survivors' pensions and 9% are invalidity pensions¹⁵. Whereas survivors' pensions play a major role for women, accounting for 32% of all pensions claimed by them (versus 7% of pensions claimed by men), a substantial proportion of men (16%) draw invalidity-induced pensions, while only 5% of women do so. Mid 2013, 1,812,170 persons received a single pension and 251,443 persons more than one pension under the statutory pension insurance system. The majority of them are women who receive a survivors' pension in addition to their old-age or invalidity pension.

4.2.3 STATUTORY RETIREMENT AGE

STATUTORY OLD-AGE PENSION

The statutory retirement age is currently 60 years for women and 65 years for men.

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

There are a few exceptions to the statutory retirement age of 65 years for men and 60 for women applicable as from 2017:

¹⁵ As from 2011, invalidity pensions will only be counted as such until beneficiaries reach the age that qualifies them for standard old-age pensions. Once they have completed their 60th/65th year, they will be included as standard old-age pensioners in Austrian statistics.

CORRIDOR PENSION (KORRIDORPENSION)

Corridor pension allows for retirement at the age of 62 with actuarial deductions of 5.1% for each year of retirement prior to the statutory retirement age.

PENSIONS GRANTED TO WORKERS IN DEMANDING JOBS (SCHWERARBEITSPENSION)

The Schwerarbeitspension allows men and women to retire at the age of 60 subject to actuarial deductions of 1.8% for each year of retirement prior to the statutory retirement age. The scheme requires an insurance record of 45 years and at least ten years spent in physically and psychologically demanding jobs (defined by detailed criteria) within the last 20 years before retirement.

PENSION SUBJECT TO LONG-DURATION INSURANCE RECORD (LANGZEITVERSICHERTENPENSION)

Under the Langzeitversichertepension women born 1958 or before may retire at the age of 55 if they have an insurance record of 40 contributory years. Men born 1953 or before may retire at the age of 60 if they have 45 contributory years. The scheme does not involve any actuarial deductions and applies only to those who meet the requirements for this type of pension by 31 December 2013.

After that, i.e. as from 1 January 2014, a revised pension option for those with long-term insurance records will apply, enabling female workers born 1959 or later to retire at ages gradually increased from 57 to 62 and male workers born 1954 or later to retire at the age of 62. Contributory requirements for women will be gradually raised from 42 to 45 years of gainful employment. To qualify, men must have been in gainful employment for 45 years. However, they will have to reckon with actuarial deductions totalling 4.2% per year retired before reaching the statutory age of retirement.

EARLY RETIREMENT ON GROUNDS OF LONG INSURANCE RECORD

With early retirement on grounds of long insurance periods being phased out, the statutory retirement age will rise continuously to 65 years for all men and 60 years for all women between 2004 and 2017. The statutory retirement age under this expiring scheme is staggered by years of birth.

4.2.4 DE FACTO RETIREMENT AGE

In 2013, the effective age at which people claimed old-age pension was 59.3 years for women (2003: 59.0) and 62.9 years for men (2003: 62.7). If invalidity pensions are

included, the effective retirement age for direct pensions, i.e. old-age and invalidity pensions, was 57.4 years for women (2003: 57.3) and 59.4 years for men (2003: 59.0).

Retirement age

	2003	2013
old-age pensions		
women	59.0	59.3
men	62.7	62.9
average	60.5	60.8
invalidity pensions		
women	51.3	50.3
men	54.3	53.8
average	52.4	52.5
old-age and invalidity pensions		
women	57.3	57.4
men	59.0	59.4
average	58.2	58.4

Source: Federal Ministry of Social Affairs; February 2014

4.2.5 PENSION CALCULATIONS

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

In 2014, the complicated system of ‘parallel pension calculations’ will be replaced by an initial credit to the pension account. Any entitlements accrued until this point in time will thus be transferred to the pension account, whereupon only one type of pension, i.e. the account-based pension, will be calculated (see item 4.2.6).

Pension amounts are primarily determined by the following four factors:

- » the number of insurance months accrued
- » the level of the assessment basis
- » the retirement age, and
- » in case of low pensions, needy pension claimants are entitled to an equalisation supplement (Ausgleichszulage).

Under the old pension insurance legislation, insurance months were months for which pension insurance contributions were paid under a statutory or voluntary insurance scheme, as well as equivalent periods (substitute

qualifying periods) which were credited although no contributions were paid (e.g. periods on sickness benefit, unemployment benefit, maternity allowance, periods of military service, training, civilian service, child-rearing). Under the new legislation, only contributory months are credited towards social pension insurance, with some of the contributions being paid from public funds or other social protection systems (previous substitute qualifying periods).

Originally, the assessment basis was calculated using the insured income from work (i.e. the underlying contribution bases) of the annualised ‘best’ 180 contributory months (15 years). Under the recent pension reform this reference period is gradually extended to 480 months (40 years). As from 2028, the average of the 480 highest monthly contribution bases – from the date of first-time insurance to the last calendar year preceding the cut-off date for retirement – will be used for calculating the assessment basis. If fewer than 480 contributory months are accrued, the assessment basis will be determined from the available contributory months.

The incremental amount totals 1.78%.

Pension reform also introduced caps on pension losses. Possible pension losses caused by pension reform in relation to pensions under the old legislation are to be kept within a tolerable limit for those already at work. Reform-led reductions of pension benefits (compared with pension amounts under the old system) were not to exceed 5% in 2004. This percentage is raised by 0.25 percentage points per year and will total a maximum of 10% as from 2024.

COMPENSATORY MEASURES PRIMARILY TARGETED AT WOMEN

In order to absorb any negative impact of the pension reforms on women¹⁶, and to somehow compensate for the disadvantages suffered by women in the labour market, the following gender-specific measures have been adopted under the recent pensions reforms:

- » The assessment basis for periods of child-rearing has been raised to EUR 1,649.84 a month in 2014. This amount corresponds roughly to women’s average income from gainful employment and is valorised every year. Pensionable periods of child-rearing total up to four years per child (previously 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 seven years (previously 15 years). Periods of (nursing

care for a disabled child or for a close relative who has qualified for long-term care benefits (category 3 and up), as well as periods of family hospice leave (taken to nurse a seriously ill or dying relative) are also eligible as periods of gainful activity.

- » Provisions governing early retirement on grounds of long insurance periods continue to apply to women; this type of early retirement will be phased out in 2017.
- » To improve the social law situation of, inter alia, mothers who are exclusively engaged in the care of a disabled child, they are given the option of taking up voluntary non-contributory pension 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 of child-rearing under the Austrian social insurance system breaks new ground for women, enabling them to build up and enhance pension entitlements of their own.
- » Under certain conditions, periods of child-rearing – as well as periods on maternity allowance – are deemed to be equivalent to pensionable periods in assessing eligibility for pension benefits under long-term insurance rules for workers and for manual labourers performing heavy work.

4.2.6 THE NEW PENSION ACCOUNT

Effective as of 1 January 2005, the harmonisation of social pensions (including those of federal civil servants) introduced three groups of insurees:

- » Insurees who had turned 50 at this point in time (born 1954 and earlier);
- » insurees who had accrued fewer than three insurance years before 2005 (primarily those having begun to work in 2005 or slightly earlier, i.e. born 1987 and later);
- » insurees who had accrued more than three insurance years before 2005 (primarily those born between 1955 and 1986).

As of 2008, retirement may be governed by the following schemes:

Cohorts born 1954 and earlier came and still come under the ‘old scheme’, cohorts born 1987 and later fully came and come under the pension account scheme, while as of 1 January 2014 the large group of cohorts born between 1955 and 1986 migrates from the previously applied ‘parallel pension calculation’ (involving three types of

16 in particular the increase of contributory periods from 15 to 45 years to be considered in calculations of the assessment basis

calculation) to the new pension account with its initial credit (Kontoerstgrutschrift).

Parallel pension calculation is a kind of ‘overview’ of three differing legal situations: that of 2003, that of 2004 and that of the pension account scheme. The ratio of ‘old’ and ‘new’ insurance periods will determine the actual amount of pension benefits paid.

PARALLEL PENSION CALCULATION NO LONGER APPLICABLE

On 1 January 2014 ‘parallel pension calculation’ was replaced by the initial credit for those born after 31 Decem-

ber 1954 (for civil servants born after 31 December 1975). Therefore, persons born between 1955 and 1986 (for whom the pension account already applied, although to a limited extent, under the parallel calculation system) will fully ‘migrate’ to the new pension account scheme.

The challenge in this context is to map the insurance periods/pension entitlements accrued by the end of 2013 in a single EUR amount to be transferred to the pension account as both an ‘initial credit’ and a ‘total credit’. Later (valorised) partial credits will be added to the total credit every year enabling insurees to simply check their pension entitlements at any time.

Example: Calculation of initial credit

Year	Annual contribution base	Increment in %	Partial credit	Total credit	Monthly pension benefits (total credit divided by 14)
2013				20,028	1,431
2014	38,134	1.78	679	20,729	1,481
2015	39,469	1.78	703	22,157	1,583
2016	40,850	1.78	727	23,660	1,690
2017	42,280	1.78	753	25,240	1,803

Source: Federal Ministry of Social Affairs; February 2014

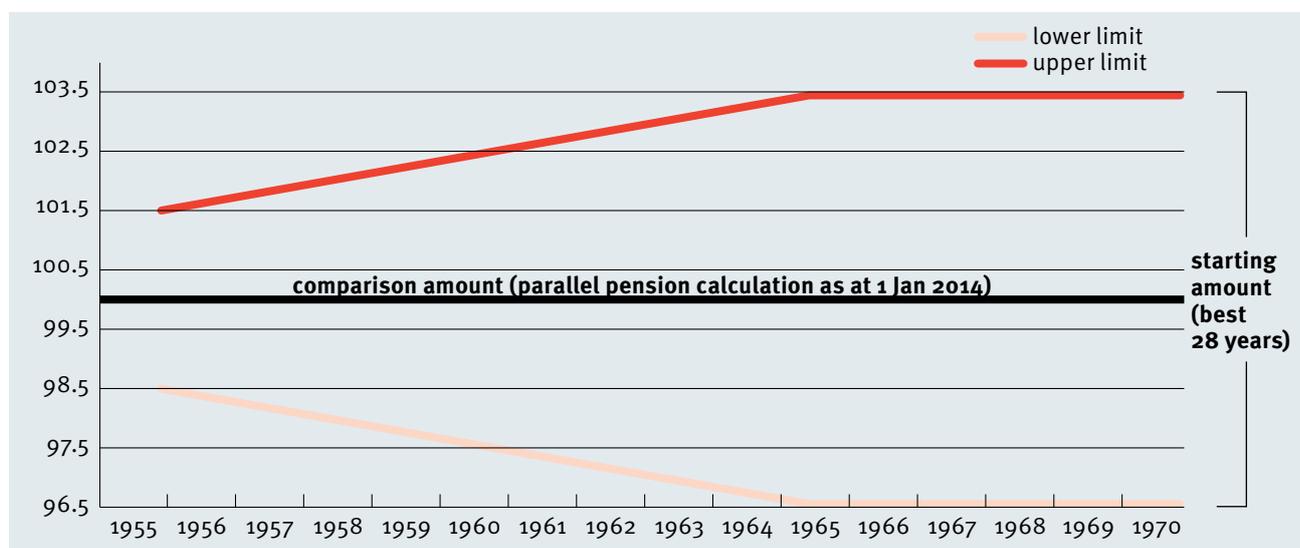
Initial credit: **EUR 20,028**

THE INITIAL CREDIT

The level of this credit is based on the calculation of two fictitious old-age pensions (starting amount and comparison amount) for 1 January 2014. The ‘starting amount’ (§15 (2) of the General Pension Insurance Act – APG) shows the level of pension benefits theoretically paid upon retire-

ment at the normal age for retirement based on the legal situation of 2004, but with the best 28 contributory years taken into account. The ‘comparison amount’ (§15 (4) of the APG) shows pension benefits theoretically paid upon retirement at the normal age for retirement based on the parallel calculation system.

Pension benefits credited to an account, upper and lower limit for comparison amount



Source: Federal Ministry of Social Affairs; February 2014

The **initial credit** to the pension account is determined as follows (§15 (6) and (7) of the APG):

- » An upper and a lower limit is computed for the comparison amount, which may vary between 1.5% and 3.5% depending on age cohort.
- » If the starting amount is within these limits, the initial credit totals 14 times this starting amount.
- » If the starting amount is below the lower limit, the initial credit totals 14 times the lower limit of the comparison amount.
- » If the starting amount is above the limit, the initial credit totals 14 times the upper limit of the comparison amount.

This initial credit is to be allocated to the pension account (=total credit for 2013) by 30 June 2014 at the latest and the insureds in question are to be informed accordingly, whereupon former partial and total credits will no longer be applicable and replaced by the total credit for 2013. It may become expedient to calculate the ‘fictitious level

of future pension benefits’ at different retirement ages for cohorts close to retirement to illustrate the favourable effect of an additional year of economic activity/contribution payment on the level of pension benefits.

ADVANTAGES OF THE NEW PENSION ACCOUNT

The advantages of the new pension account include:

- » Discontinuation of the parallel calculation system involving three differing legal situations;
- » Transparency and traceability of contributions paid and entitlements accrued; and
- » Relevance of the account statement.

The below example compares the increase in the level of pension per year of later retirement under different schemes, with the new pension account showing much better outcomes than the parallel computation scheme and especially the old pension scheme. This is of major importance in the light of efforts to raise the de facto retirement age.

Example comparing the incentives for retiring later as offered by the new pension account (neues Pensionskonto), by the parallel calculation scheme (Parallelrechnung) and by the legal situation of 2003

man, born 1955, retiring in 2017 at age 62 – corridor pension; assumed income curve: from 80% of median income to 140% at the end of economic activity

age	retirement	insurance years	new pension account		parallel calculation		legal situation 2003	
			in EUR	in %	in EUR	in %	in EUR	in %
62	2017	45	1,560		1,611		1,942	
63	2018	46	1,694	8.6	1,681	4.3	1,963	1.1
64	2019	47	1,833	8.2	1,753	4.3	1,979	0.8
65	2020	48	1,978	7.9	1,902	8.5	1,995	0.8
66	2021	49	2,109	6.6	2,031	6.8	2,055	3.0
67	2022	50	2,244	6.4	2,095	3.2	2,116	3.0
68	2023	51	2,384	6.2	2,150	2.6	2,178	2.9
			53 %		33 %		12 %	

Source: Source: Federal Ministry of Social Affairs; February 2014

Example for how to read the above table: under the new pension account scheme the level of pension benefits will increase by 8.6% if the insured in question retires at age 63 (instead of 62), by 8.2% if the insured retires at age 64 (instead of 63) etc. In this case actual retirement at age 68 (instead of 62) would increase pension benefits by 53%, while such later retirement under the parallel calculation scheme would result in +33% and under the old scheme of 2003 in +12%.

4.2.7 PENSION AMOUNT

In December 2013, the average gross old-age pension amount (including supplements and subsidies) was EUR 1,182 (14 times a year), i.e. almost 55% in relation to average gross earnings from gainful work of all employees (blue-collar and white-collar workers) in 2012.

Differences between women and men in contributory years and levels of income from gainful activity are reflected in gender-specific pension amounts. The average old-age pension of women under statutory pension insurance (EUR 918) corresponds to 60% of the average pension of men (EUR 1,522).

Average old-age pensions, December 2013, in EUR¹

	women	men
blue-collar workers	669	1,163
white-collar workers	1,186	2,004
self-employed persons	1,049	1,693
farmers	590	1,103
all pension insurance institutions	918	1,520

Source: Federal Ministry of Social Affairs; February 2014, annual statistics, excl. SI for Austrian notaries

¹ incl. children's subsidy and equalisation supplement

4.2.8 MINIMUM INCOME UNDER PENSION INSURANCE SCHEMES

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 (Ausgleichszulage) guarantees a

minimum income to persons eligible for a pension (see Chapter 11).

4.2.9 FINANCIAL SUSTAINABILITY

Under the General Social Insurance Act (ASVG), a 'Pension Commission' has been established to ensure the sustainability of pension systems (Kommission zur langfristigen Pensionssicherung). Among other things, its task is to report every third year (starting 2007) on the long-term financing prospects of the statutory pension scheme until 2050. If the Pension Commission identifies, for the entire period, an average deviation of more than 3% from the average pension-related life expectancy at 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 of 'contribution rate', 'account percentage', '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

The pension schemes of civil servants still play an important role in the overall system of retirement income provision. Roughly one seventh of all pensions are civil servants' pensions, accounting for one fourth of total spending on pension benefits.

In future, the significance of separate retirement income provision for civil servants will gradually decline as fewer employees in the public service are given tenured status and civil servants' pension legislation is increasingly harmonised with the statutory pension insurance scheme.

There have been several pension reforms since 1997. They concern currently active civil servants and have led to a gradual harmonisation of their largely more generous pension scheme with legislation governing the statutory pension scheme.

Most of the currently 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).

Under the 2004 pension reform ('harmonisation'), the provisions of the statutory pension insurance system will increasingly apply to civil servants under the age of then 50. For currently active civil servants born in 1955 and after the special pension legislation for civil servants will only apply to a certain percentage of total pension calculation, this component depending on the years spent in

public service up until 31 December 2004 (old pension law). The remaining portion of total pension will be assessed according to the rules applicable under the statutory pension scheme (new pension law). Pensions of civil servants given tenured status as from 1 January 2005, and of civil servants born on or after 1 January 1976, will be assessed in accordance with the same rules as the ones used under the statutory pension scheme.

Civil servants working for Laender and local authorities are subject to separate and differing pension laws. Several Laender have already followed suit by implementing the above pension reform ('harmonisation') for their civil servants.

Civil servants pay pension contributions. For civil servants born before 31 December 1954, these contributions amount to 12.55% of their salaries. Contributions by civil servants born on or after 1 January 1955 depend on their year of birth: the rate for pensionable salary components up to the ceiling on insurable earnings (EUR 4,530 in 2014) is 12.4% at most; the rate for pensionable salary components above this ceiling is 11.73% at most. Territorial authorities pay employers' contributions to their civil servants' pension insurance since 1 January 2013. They will also cover any negative difference between revenue from pension contributions and spending on pension benefits when such pensions are paid by the relevant pension insurance institution.

Retired civil servants pay pension contributions of between 1.77% and 3.3%, depending on the year of retirement.

The statutory retirement age for civil servants will be raised to 65 by 2017. At present (December 2013), it is 64 years. Retirement before reaching the statutory retirement age is subject to actuarial deductions.

Civil servants who are permanently incapable of work must enter retirement regardless of their age.

Civil servants' retirement pay (Ruhegenuss) under the old scheme is assessed using a special calculation basis, i.e. the average of a certain number of maximum

pension contribution bases. Given there are no actuarial deductions, 80% of this special calculation basis constitute the assessment basis for retirement pay. What percentage of this calculation basis is due as retirement pay will depend on the total of pensionable service years. After a transition period, they will need 45 service years in future to receive 80% of the calculation basis in retirement pay (=maximum level).

Under the old scheme – as opposed to the new rules and to statutory pension schemes – there is no assessment ceiling and thus no ceiling on the amount of retirement pay for civil servants.

4.4 SOCIAL COMPENSATION SYSTEMS¹⁷

CASH INCOME SUPPORT FOR VICTIMS OF WAR

Austrian nationals who performed military service during the World Wars and suffered health impairments on account of such service are considered to be war victims under the Act on Cash Income Support for Victims of War (Kriegsopferversorgungsgesetz – KOVG). Civilians, too, come under this group if their health was impaired through no fault of their own in military operations.

The KOVG provides for cash benefits (primarily pen-

sions), therapeutic and orthopaedic care as well as medical, occupational and social rehabilitation measures.

On 1 July 2013, the number of KOVG beneficiaries was at 21,293, with total funding amounting to roughly EUR 154.8 million in 2012

VICTIMS WELFARE ACT

Under the Victims Welfare Act (Opferfürsorgegesetz), victims whose health suffered while in the resistance movement and under political persecution from 1933 to 1945 receive a number of ongoing benefits similar to those granted to victims of war.

Moreover, this act also provides for supplements for imprisonment amounting to EUR 47.70 per month (2013) and means-tested maintenance pensions¹⁸. The act also covers therapeutic and orthopaedic care as well as occupational and social rehabilitation measures.

In 2005, victims of the National Socialist military judiciary as well as NS victims persecuted for their sexual orientation or on charges of being 'asocial' were accorded entitlement to victim welfare.

On 1 July 2013, the number of beneficiaries was 1,795, with total funding amounting to roughly EUR 18.4 million in 2012.

Monthly cash benefits for victims of war, 2014

benefits to victims with health impairments	monthly amounts in EUR
basic pension	52.30 - 523.30
old-age or hardship allowance	23.40 - 204.20
allowance for severe impairment	157.00 - 418.60
means-tested pension supplement	up to 839.40
contribution towards the cost of special diet	32.70 - 98.30
special care allowance, allowance for the blind	687.70 - 2,749.70

Source: Federal Ministry of Social Affairs; February 2014

¹⁷ In principle, the following social compensation schemes provide income in case of invalidity: compensation to war victims, compensation to prisoners of war, victim welfare. Since most persons (98%) concerned by social compensation laws – war victims and their survivors – are 60 years and over, these laws mainly serve the function of retirement income provision. The same applies to the victim welfare scheme.

¹⁸ up to EUR 1,087.30 per month for single persons, up to EUR 1,491.80 for married victims or victims living with a life-partner, and up to EUR 997.10 for survivors

COMPENSATION TO PRISONERS OF WAR

The Act on Compensation to Prisoners of War (Kriegsgefangenenentschädigungsgesetz – KGEG) ensures compensation to Austrian nationals who

- » were prisoners of war during World War I or World War II
- » or who were arrested and detained during World War II or during the Allied occupation of Austria by a foreign power for political or military reasons
- » or who – on account of being politically persecuted within the meaning of the Victims Welfare Act –

were arrested outside the territory of the Republic of Austria and, after the beginning of World War II, detained by a foreign power for political or military reasons.

The act provides for monthly benefits from EUR 15 to EUR 37, depending on the duration of captivity.

On 1 July 2013, the number of beneficiaries was 25,400, with total funding amounting to roughly EUR 7.1 million in 2012.

4.5 OCCUPATIONAL PENSION SCHEMES

Occupational pension schemes are governed by the Occupational Pension Act (BPG), which basically covers all employees working under private law employment relationships as well as all other eligible parties (i.e. also spouses and children). Commitments made by employers to defined benefits for employees working under private law employment relationships are of a voluntary nature.

The four forms of defined benefits¹⁹ have in common that they are meant to supplement statutory old-age, invalidity and survivors' pension schemes. These defined benefit plans are group- and employer-based forms of retirement income provision. Under the BPG, commitments to defined benefits basically can be made under collective agreements, plant-level agreements or individual agreements (=basic agreements under the law of employment contracts).

In case of defined benefit schemes involving pension funds, occupational group and life insurance schemes, employers must pay, on behalf of their employees, contributions to pension funds or insurance companies which invest these contributions and disburse them when claimed in the form of monthly retirement benefits. Retirement benefits are paid by credit transfers to the bank accounts of beneficiaries. Pension benefits paid under direct defined benefit programmes are funded and paid by employers directly.

Of relevance in labour law practice are defined benefit schemes involving pension funds or occupational group insurance schemes. If employers promise their employees defined benefits under pension fund arrangements, a basic agreement under the law of employment contracts underlies the agreement to be concluded between

the participating employer and a pension fund. The BPG sets out the necessary minimum contents of defined benefit schemes managed by pension funds. Retirement and survivors' income provision is mandatory for such defined benefits promised by employers; occupational disability pensions may be included as an additional option in the basic agreement under employment contracts law. The BPG also includes provisions on the vesting of entitlements already accrued. Vesting means that any entitlements already accrued by employees terminating their employment relationships before claims are due under the basic agreement will be maintained no matter why the employment relationship is terminated. However, defined benefit schemes managed by pension funds may include a vesting period of, currently, up to three years from the beginning of contributions. The BPG also includes provisions on how to calculate the vesting amount. Moreover, this act defines what employees can do with the vesting amount when the employment relationship is terminated.

Claiming the accrued pension capital in cash (disbursement) upon termination of the employment relationship before actual claims are due is only admissible if the vesting amount, at the time of termination, is below a threshold defined in the Pension Fund Act (PKG), i.e. EUR 11,400 for 2014.

Basically, defined benefit plans managed by occupational group insurance schemes are subject to the same rules as those managed by pension funds, the only major deviation being that the contributions paid by employers become vested immediately.

19 defined pension funds, occupational group insurance schemes, direct defined benefit programmes and life insurance schemes, see section 2.8

For more details on group insurance schemes refer to the web page of the Austrian Insurance Association (Verband der Versicherungsunternehmen Österreichs – VVO) www.vvo.at (› Service › Betriebliche Altersvorsorge).

sion fund or to an old-age insurance scheme, they may use the new severance pay scheme to build up assets for retirement income provision. This option is intended to strengthen the second pillar of retirement income provision (see Chapter 12).

As employees now have the option of transferring capital accrued under the new severance pay scheme to a pen-

CHAPTER 5

SURVIVORS' PENSIONS

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5.1 OVERVIEW

In Austria, survivors' pensions (widows', widowers' and orphans' pensions) play an important role: this type of pension benefit accounts for nearly one quarter (22%) of all pensions.

Total expenditure on survivors' benefits under statutory pension insurance, public legal bodies', work accident insurance and social compensation schemes amounted to EUR 5.8 billion in 2012, i.e. roughly 6% of social expenditure or 2% of GDP.

87% of claimants of survivors' pensions under the statu-

tory pension scheme are women. Owing to the formerly low female employment participation approximately one third of women aged 60 and above do not qualify for old-age pension benefits of their own. For many of them a survivors' pension is pivotal for their subsistence in old age. 89% of these survivors' pensions are paid to persons over the statutory retirement age.

50% of survivors' pension recipients claim an additional old-age or invalidity pension or a civil servants' retirement pay.

Expenditure on and recipients¹ of survivors' pensions, 2012

	expenditure in EUR bn	recipients in thousands
statutory pension insurance	4.5	510.3
civil servants ²	1.0	87.6
laws on cash-income support	0.1	15.7
work accident insurance	0.1	15.7
total³	5.8	617.5

Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROSS database on social expenditure as at 5 December 2013

¹ Roughly 90% of recipients of survivors' pensions of various origins are women.

² Recipients: preliminary data ESSPROSS 2012

³ Claimants of several types of pension benefits are counted only once in the total.

5.2 STATUTORY PENSION INSURANCE

ELIGIBILITY CRITERIA

Eligibility criteria under the statutory and the civil servants' pension scheme are of a similar nature and characterised by generous standards compared with those of other EU member states. Widows/widowers who are past their 35th birthday upon the spouse's death are entitled to a widow's or widower's pension for life unless they re-marry.

Widows/widowers under 35 years of age are also entitled to recurring benefits if they are incapable of work and were primarily maintained by the spouse until his/her death, or if a child was born from marriage, or the wife is pregnant when the husband dies, or if the spouses had been married for at least ten years.

Surviving spouses who meet none of the above criteria are entitled to survivors' benefits for 30 months. This time restriction also applies to widows and widowers surviving a spouse they married at a time when this spouse was already in receipt of an old-age or invalidity pension. In such cases they will only qualify for a recurrent widows'/

widowers' pension if their marriage lasted for a certain period of time (three, five or ten years). The required period of marriage depends on the age difference between the spouses; in age differences of more than 25 years, the marriage must have lasted for ten or more years. However, a recurring benefit will be granted in these cases as well, if a child was born from the marriage.

Widows'/widowers' pensions may also be claimed by divorcees provided that the divorced survivors had established rights to claim alimony from the ex-spouse and/or such alimony payments were made. In such cases, the widow's/widower's pension is limited to the alimony amount due. Under certain conditions (mostly depending on the type of divorce) no such ceiling applies.

Under a revision introduced on 1 January 2010 the rules for widows'/widowers' pensions apply mutatis mutandis to same-sex registered partnerships. The criteria to be met by the surviving registered partner to qualify for survivors' pension benefits are the same as the ones to be met by a surviving spouse under this scheme.

The amount of widows'/widowers' pensions is determined by the relation between the earnings of the deceased and those of the surviving spouse in the last two or four calendar years, respectively. It may range from 0% to 60% of the deceased spouse's (fictitious) pension. A widow's/widower's pension of less than 60% can be raised if the sum total of this pension and other incomes is less than EUR 1,855.84 per month (minimum threshold 2014). In such cases, the pension amount is increased to reach this minimum threshold, but must not exceed 60% of the deceased spouse's pension. High incomes (EUR 9,060 a month in 2014) are subject to a maximum benefit threshold.

In December 2013, the average widow's pension under the statutory pension insurance scheme was EUR 710 and the average widower's pension was EUR 317 (14 times a year, incl. supplements and subsidies).

Women with only a widow's pension (under the statutory pension insurance scheme) and no pension of their own received EUR 629 on average (14 times a year) in December 2012. This amount rose to EUR 1,444 (including supplements and subsidies) if they were entitled to another pension benefit.

ORPHANS' PENSIONS

Children of a deceased parent are eligible for orphans' pensions if their deceased parent meets the relevant waiting time criteria (same as for invalidity pensions) and if they are under 18 years of age. An orphan's pension is paid beyond this age for as long as the orphan in question is enrolled in education or training, or if the orphan is incapable of work.

Orphans' pensions granted to children who have lost one parent total 24% of the pension that would have been due to the deceased parent, and those granted to children who have lost both parents total 36% of the pension that would have been due to the deceased parent(s). If both parents were pension insured, orphans are entitled to two orphans' pensions (at a rate of 36% of each of the two pensions the deceased parents would have qualified for). Orphans' pensions include health insurance cover, although no health insurance contributions are withheld. As at 31 December 2013, 48,202 children and adults received an orphans' pension. About one third of these claimants was already over 27 years of age. For this group (adult orphans incapable of work), orphans' pensions are a means of ensuring their subsistence.

5.3 SURVIVORS' INCOME PROVISION UNDER OTHER SYSTEMS OF SOCIAL PROTECTION

Entitlement conditions under the civil servants' pension scheme are similar to those under the statutory pension scheme. In December 2012, roughly 88,000 survivors' pensions were administered by the civil servants' pension scheme.²⁰

The laws governing social compensation (see Chapter 4) also provide for survivors' benefits. As at 1 July 2012,

- » 14,198 survivors' benefits were paid under the Act on Cash Income Support for Victims of War (Kriegsopfer-versorgungsgesetz – KOVG),
- » 575 such benefits under the Victims Welfare Act (Opferfürsorgegesetz – OFG),
- » 81 under the Military Service Compensation Act (Heeresversorgungsgesetz – HVG)
- » and 22 under the Act on Victims of Crime (Verbrechensopfergesetz – VOG).

20 Source: ESSPROS, preliminary data, as at December 2013

CHAPTER 6

INVALIDITY PENSIONS

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6.1 OVERVIEW

In cases of permanently reduced capacity or total incapacity to work, a number of social protection systems provide cash benefits, benefits in kind, or assistance to (re-)integration into the labour market, as well as special protection under employment law for specific groups of persons.

The cash benefits provided by statutory pension insurance schemes are referred to as invalidity pensions (Invaliditätspensionen), while those provided by the civil servants' scheme are called retirement pay (Ruhebezug). Entitlements to cash benefits paid by the work accident insurance scheme (called disability pension – Versehrtenrente) arise if workers suffer occupational accidents or occupational diseases. If, in case of invalidity, workers are not entitled to any cash benefits under these systems of social protection and if their financial resources are insufficient, their livelihood will be secured by the means-tested minimum income scheme (former social assistance scheme, phased out in 2010).

The cash benefits are supplemented by medical, social and occupational rehabilitation and support measures offered by the relevant entities: social insurance institutions, the public employment service, the Federal Ministry of Labour, Social Affairs and Consumer Protec-

tion (primarily via the Federal Social Office), as well as the Laender and local authorities.

According to the EUROSTAT-ESSPROS methodology for social expenditure, only individuals who have not yet reached statutory retirement age (60/65 years) are included in statistics on invalidity-based social benefits. Expenditure on invalidity-related pensions for this group amounted to EUR 4.5 billion in 2012, or 5% of all social benefits and 1.5% of GDP.

Unlike most EU member states, Austria did not convert the invalidity pensions paid by statutory pension insurance schemes and the pension-like benefits (disability pensions) paid by the work accident insurance scheme into regular old-age pensions when claimants reached retirement age. Rather, they continued to be shown as invalidity and disability pensions in Austrian statistics till the end of 2010. Statutory pension insurance schemes reported 470,000 invalidity pensions on this date, with claimants aged 60/65 and above accounting for 55% of these benefits. As of 1 January 2011 invalidity pension recipients who have reached pensionable age are allocated to old-age pensioners and are therefore no longer shown separately in official statistics.

6.2 INVALIDITY PENSIONS UNDER STATUTORY PENSION INSURANCE

In this section all invalidity-related pensions are subsumed under the term of 'invalidity pensions' including: invalidity pensions (Invaliditätspension) for blue-collar workers, occupational disability pensions

(Berufsunfähigkeitspension) for white-collar workers, and general disability pensions (Erwerbsunfähigkeitspension) for the self-employed and for farmers.

Expenditure on and number of invalidity and disability pensions, 2012

	EUR bn	in thousands ¹
invalidity pensions under pension insurance	3.21	208.8
civil servants' invalidity pension ²	0.93	30.4
special laws on cash-income support	0.02	1.6
disability pension under work accident insurance	0.29	47.3
total	4.45	288.1

Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database on social expenditure as at 5 December 2013

¹ Number of recipients according to ESSPROS, with recipients of multiple benefits included. The number of disability pensions awarded under work accident insurance refers to pension benefits paid to persons under 60/65 years.

² Recipients: preliminary ESSPROS data for 2012. There is no explicit invalidity pension scheme for civil servants. All direct pensions (old-age and invalidity pensions) paid prior to a person's 60th year are listed as invalidity pensions.

6.2.1 ELIGIBILITY CRITERIA

Any application for invalidity pension is primarily considered to be an application for rehabilitation benefits and services. The competent pension insurance institution is obliged to consider rehabilitation options in the first place and only, if no such options are available, to decide about awarding pension benefits.

As of 1 January 2014, insurees born 1964 or later and suffering from temporary disability are no longer entitled to fixed-term invalidity pension benefits. Temporarily incapacitated insurees of this age cohort may claim rehabilitation benefits (in the same amount as sickness benefits) and medical rehabilitation if this is suitable and expedient (see Chapter 8). Insurees are entitled to such rehabilitation benefits unless they are entitled to PES-administered retraining benefits and occupational rehabilitation.

Basically, insured workers born 1963 or earlier are entitled to transition benefits (in the same amount as invalidity pension benefits) while they are in occupational rehabilitation. The public employment service provides occupational rehabilitation for age cohorts born 1964 and later and pays the retraining benefits due during this period (in the same amount as unemployment benefits plus 22%).

Measures of functional and occupational rehabilitation are taken to remedy any existing incapacity or avoid any risk of incapacity for work and ensure sustainable reintegration into the labour market.

In addition, eligibility for invalidity pensions requires proof of insurance for a minimum period of time, i.e. ranging from six months to 15 years (depending on the age of the insuree). Invalidity is determined on the basis of health impairments and the occupation primarily exercised (meaning a pensionable occupation under which the insuree has accrued 90 months or more of compulsory insurance within the past 15 years preceding the cut-off date).

Entitlements differ according to social law status (blue-collar or white-collar workers) and job characteristics.

INVALIDITY OF BLUE-COLLAR WORKERS

Among blue-collar workers, distinctions are drawn between:

- » skilled work (completed apprenticeship)
- » semi-skilled work (skills and knowledge acquired through practical work experience) and
- » unskilled work (no special training or skills).

Insured parties who were employed as skilled or semi-skilled workers enjoy the same kind of occupation-related protection (Berufsschutz) as white-collar workers, i.e.

they are entitled to employment in their former occupation. If, because of their reduced capacity to work, they are unable to do the job for which they were trained or in which they acquired skills, they may be assigned to other jobs within the same occupational group, but not to other groups of occupations (this is banned under Berufsschutz rules).

Workers are considered to be invalids if, as a result of their physical or psychological state, their capacity to work has been reduced to less than half of the capacity a physically or psychologically healthy person with similar training and equivalent skills and capabilities would display in each of the jobs assignable to such workers.

If unskilled workers are unable to work in their previous job due to their physical or psychological state, they may be placed in any paid job which is available in the general labour market and which they may reasonably be expected to accept with due regard to the job previously done. Unlike skilled or semi-skilled blue-collar workers, they do not enjoy occupation-related protection. Unskilled workers are considered to be invalids if they are no longer able to earn in such a suitable job at least half the pay a physically and psychologically healthy insuree would normally earn in this job. They may be assigned to jobs in all areas of the labour market.

Unskilled workers over 58 years of age enjoy activity-related protection (Tätigkeitsschutz): insured persons aged 58 or over are considered to be invalids if, as a result of illness or other infirmity, they are unable to pursue an activity in which they were engaged for at least ten years during the past 15 years. The required age for activity-related protection will be gradually raised to 60 years and over as from 2013. In 2013 and 2014, unskilled workers will enjoy such protection at age 58 and over, in 2015 and 2016 at age 59 and over, and in 2017 and later years at age 60 and over.

CASES OF HARDSHIP: SPECIAL RULE SINCE 1 JANUARY 2011

A special rule governing cases of hardship enables unskilled workers past their 50th birthday to claim invalidity pensions if they were unemployed for at least twelve months prior to the cut-off date, have accrued 360 insurance months or more (whereof 240 contributory months or more under compulsory insurance) and are only capable of doing lowest-skilled jobs.

INVALIDITY OF WHITE-COLLAR WORKERS

White-collar workers are considered to be invalids if, as a result of their physical or psychological state, their capacity to work has been reduced to less than half of the

capacity of a healthy person with similar vocational training and equivalent skills and capabilities. In medical examinations their state is compared with the performance requirements to be met by healthy insured workers in the same occupation. Medical reports must also consider the option of placing a pension applicant in another job within the same occupational group ('assignable jobs'). Moreover, the above special rule for cases of hardship applies to applicants aged 50 years and over. Applicants past their 57th birthday (for gradually rising entitlement age as of 2013 see above) are subject to activity-related protection as are blue-collar workers.

INVALIDITY OF SELF-EMPLOYED TRADE OR BUSINESS PEOPLE

Persons who have not yet turned 50 are considered invalids if, due to their state of health, they are unable to pursue paid work on a regular basis. In such a case it is irrelevant whether the workers in question have realistic chances of finding suitable work they are still able to do. They may be assigned to any job available in the entire labour market.

Self-employed workers past their 50th birthday are deemed to be invalids if their personal job 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 jobs requiring similar skills and knowledge as the ones they did in the past 60 calendar months (Berufsschutz). In addition, the above rule for cases of hardship apply to self-employed workers who are past their 50th birthday and only capable of doing lowest-skilled jobs. Self-employed workers aged 57 and over (for gradually rising entitlement age as of 2013 see above) are subject to activity-related protection (Tätigkeitsschutz) as are blue-collar and white-collar workers.

INVALIDITY OF FARMERS

Farmers are considered to be invalids if, as a result of their impaired health status, they are no longer able to pursue paid work on a regular basis. This includes both the ability to be self-employed and the ability to be employed. Insured farmers may be assigned to any job available in the entire labour market. In addition, the above rule for cases of hardship apply to farmers who are past their 50th birthday and only capable of doing lowest-skilled jobs. Farmers aged 57 and over (for gradually rising entitlement age as of 2013 see above) are subject to activity-related protection (Tätigkeitsschutz) as are the other groups of workers referred to above.

6.2.2 CALCULATION OF INVALIDITY PENSIONS

The approach to calculating invalidity pension amounts is similar to the approach used for calculating old-age pensions (see Chapter 4). Relevant factors include the number of insurance months accrued, the level of the assessment basis and the effective retirement age.

Since early retirement would result in a very low pension amount, additional rules are applied to help cushion the drop in income. Calculation of an invalidity pension considers not only the actually accrued insurance years to determine applicable increments but also all months up until the age of 60, the latter part of the calculation being limited to 60% of the assessment basis.

Moreover, there is a cap on losses caused by actuarial deductions made on account of early exit from the labour market. Actuarial deductions of 4.2 percentage points per year of retirement prior to official retirement age must not exceed 13.8 percentage points in total (rule applicable since 1 January 2012).

6.2.3 DURATION OF INVALIDITY PENSION BENEFITS

Pension benefits for an indefinite period of time will be awarded only if the applicant's morbidity excludes any further gainful activity in the long term.

As of 1 January 2014 invalidity pension benefits are only granted to insureds born on or after 1 January 1964 if they are permanently incapacitated. If insureds of this age cohort are temporarily incapacitated, they will receive rehabilitation benefits (paid by the health insurance provider) or retraining benefits (paid by the PES) instead of fixed-term invalidity pension benefits.

Insured workers born before 1 January 1964 and suffering from temporary incapacity for work continue to receive fixed-term invalidity pension benefits (or transition benefits while in rehab).

Invalidity pensions already awarded may be revoked if the pensioners' state of health improves considerably. Revocation is no longer possible if beneficiaries have completed their 60th year (women) or 65th year (men).

6.2.4 STATISTICAL DATA

NUMBER OF PENSIONS

As per December 2013, the statutory pension insurance system paid 204,072 invalidity pensions, making up roughly 9% of current pensions under this system.

Invalidity pensions accounted for 26% of newly awarded direct pensions (old-age and invalidity pensions) in 2013. Men's share in this type of pension is disproportionately

high. They accounted for nearly two thirds (63%) of all newly awarded invalidity pensions. 56% of the male farmers and 35% of the male employees who retired from the labour market in 2013 did so on grounds of invalidity. Roughly 61,800 applications filed in 2013 – i.e. 35% of all pension applications – concerned invalidity pensions. More than half of them (53%) were refused. 22,152 lawsuits were filed with the Labour and Social Court in 2012 because of denial of application for approval of invalidity pensions. 22% of the lawsuits were decided in favour of the plaintiffs (i.e. the plaintiffs prevailed or a settlement was reached).

CAUSES OF INVALIDITY

The three major groups of illnesses underlying positive decisions on awarding invalidity pensions in 2013 were: psychiatric conditions (35%), illnesses of the skeletal system, muscles and soft tissue (25%) and cardiovascular diseases (11%).

ENTRY AGE

The average age of entry into invalidity pension was 52.1 years in 2013 (49.7 years for women and 53.5 years for men), thus being 8.7 years below the age at which workers take up old-age pensions (60.8 years). An analysis of all direct pensions taken together (i.e. sum total of old-age and invalidity pensions) reveals that the average

age of retirement in 2013 was 57.5 years for women and 59.6 years for men.

INVALIDITY PENSION AMOUNTS

With fewer insurance years accrued, invalidity pensions are much lower than old-age pensions on average. In 2013, the average invalidity pension amount of all social pension insurance schemes was EUR 1,074 (EUR 838 for women and EUR 1,181 for men, including supplements and subsidies, 14 times a year). Thus, the average invalidity pension benefit for men was 22% below the average old-age pension benefit for men, the difference for women being 9%.

Average invalidity pension amounts for women and men in EUR, December 2013¹

	women	men
PI blue-collar workers	761	1,102
PI white-collar workers	940	1,463
PI self-employed persons	883	1,290
PI farmers	717	1,074
PI total	838	1,181

Source: Federal Ministry of Social Affairs; February 2014, annual statistics, excl. SI for Austrian notaries

¹ including children's subsidy and equalisation supplements

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 servants' inability to properly fulfil their duties due to their health condition. They need not be incapable of all work. Rather, it suffices that they are unable to properly fulfil the duties ensuing from the job assigned to them. In this sense, incapacity to work includes everything that makes civil servants unsuitable for performing their duties, i.e. not only health impairments, but also habitual character traits or mental deficits, which prevent them from duly carrying out the tasks assigned to them. 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 job within the purview of her/his public employer.

In order to determine the civil servant's state of health, a medical opinion must be obtained from the pension service of the statutory insurance institution for public-sector employees and civil servants (BVA). Ultimate assessment of a civil servant's ability or inability to work is the exclusive responsibility of her/his employer rather than of the medical expert.

An alternative to retirement is the option of assigning to civil servants an alternative job available anywhere within the entire federal administration. Assignment is voluntary.

If civil servants are retired on grounds of permanent incapacity to work, up to ten years may be added for calculating their pension benefits under the old scheme.

Retirement prior to the statutory retirement age results in a reduction of the assessment basis for retirement pay from 80% to 62%. The baseline percentage of 80% is to be reduced by 0.28 percentage points (i.e. 3.36 percentage

points for one year) for each month between the date of early retirement and the earliest possible date of statutory retirement; this corresponds to a de facto reduction of 4.2% for one year. In order to calculate the total rate of actuarial deductions it is necessary to first determine the fictitious date of earliest possible retirement. Total reduction is limited to 18 percentage points.

6.4 DISABILITY PENSIONS

After accidents at work, accidents on the way to work (commuter traffic) and occupational diseases, the workers in question are entitled to disability pensions under the work accident insurance scheme, if the assessed degree of incapacity for work is at least 20% and persists for more than three months. Pupils and students suffering from a certain degree of incapacity following accidents related to school or university attendance are also entitled to disability pensions.

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

If the degree of incapacity for work is as high as 100%, the related pension benefits will total two thirds of the income earned during the year before disability set in (full pension level); if the earning capacity is reduced by between 20% and 99%, benefits will be calculated on a proportionate basis. Severely disabled persons (earning capacity reduced by 50% and over) receive a supplement of 20% or 50% of the pension benefits (the latter percentage applying to a reduction of earning capacity by 70% and over). Every year, about 2% of workers have an accident at work or on the way to work involving three or more days of sick leave. In 2012, employees had a total of 116,000 accidents at work (including accidents on the way to work), whereof 172 were fatal. The number of occupational accidents has slightly increased compared to 2011.

1,474 cases of occupational diseases were acknowledged by the work accident insurance in 2012, most of them being noise-induced hearing loss and occupational dermatitis.

4% of annual accidents at work or on the way to work, and of annual occupational diseases, create entitlements to

15.4% of all newly retired federal civil servants in 2012 retired on account of permanent incapacity to fulfil their duties.

The average age of entry into such an invalidity pension (federal civil servants 2012) was 54.2 years in 2012, thus being 7.5 years below the average age at which civil servants take up old-age pensions (61.7 years). An analysis of all direct pensions taken together (i.e. sum total of old-age and invalidity pensions) reveals that the average age of retirement in 2012 was 60.5 years.²¹

recurring pension benefits paid by the work accident insurance scheme.

A total of 85,918 individuals received disability pension benefits and 15,291 individuals survivors' pension benefits from the work accident insurance in December 2013. The disability pension amount was EUR 376 on average in the same month. This average level is driven down by the large number of partial pensions paid in case of earning capacity being reduced by up to 49%. The average rate of these partial pensions was EUR 281 in 2013. Full pensions (100% degree of incapacity for work) account for less than 3% of all disability pensions, their monthly average being EUR 1,821. Work accident insurance schemes spent a total of EUR 595 million on pension benefits in 2012.

The 2014 contributions to work accident insurance are a uniform 1.4% of contributory wages. They are paid exclusively by employers and represent a kind of third-party liability insurance for employers. Self-employed workers, who do not work in farming, pay an annual flat-rate contribution.

The additional employers' contributions for workers performing heavy night work (19,463 workers in 2013) are preventive and compensatory in nature. In these cases, a special contribution of another 3.7% (2014) of the gross wages has to be paid to the pension insurance scheme. Revenue thus generated serves to finance a special form of early retirement benefits (Sonderruhegeld from age 57, paid to 1,439 male beneficiaries and one female beneficiary in 2013). The average monthly rate of this special retirement benefit was EUR 2,019 in December 2013.

Austria's work accident insurance schemes make important contributions to the rehabilitation of victims of occupational accidents and diseases. Rehab measures

21 In this context one has to bear in mind that these invalidity pensions, unlike the ones under the statutory pension scheme, are not converted into old-age pensions once beneficiaries reach the statutory retirement age (60 years for women and 65 years for men).

are intended to provide remedial treatment and ensure re-integration into working life. EUR 412 million and EUR

90 million, respectively, were spent on these objectives in 2012.

6.5. SOCIAL COMPENSATION ACTS

All acts on social compensation include comprehensive income provision policies for individuals affected by invalidity²². Whereas, due to the age structure of claimants, cash income support for **victims of war** (Kriegsopferversorgung) or **victims welfare** (Opferfürsorge) benefits are now primarily programmes of retirement income provision²³, other social compensation systems – under the **Military Service Compensation Act** (Heeresversorgungsgesetz), the **Act on Victims of Crime** (Verbrechensopfergesetz) and the **Act on Compensation for Vaccination-Induced Disabilities** (Impfschadengesetz) – mainly concern people of working age. The target groups of these three acts are individuals performing their military service, victims of crime and people suffering from the effects of prophylactic vaccinations. Moreover, civilians injured by weapons, vehicles or military action of the Austrian federal army are entitled to support. Alongside cash benefits, these schemes offer occupational rehabilitation (e.g. training, re-training, wage subsidies) and social rehabilitation (e.g. subsidies to workplace adjustments, covering the costs of integration measures). The amount of disability pension provided under the Military Service Compensation Act ranges from just under EUR 91 to EUR 2,259 per month. In analogy to income support for victims of war, additional recurring benefits are available (means-tested supplements, care supplements, supplements for the blind, subsidies to special dietary costs). The number of individuals eligible for this type of support was 1,826 on cut-off date (1 July 2013),

with total funding amounting to roughly EUR 11.8 million in 2012.

Crime victims will receive government assistance if they sustain bodily injury or health impairment as direct victims or innocent bystanders of a premeditated crime (punishable by at least six months of imprisonment) and are therefore subject to reduced earning capacity. The Act on Victims of Crime provides for loss of earnings or alimony of up to EUR 3,665 per month as well as lump sum compensation for immaterial damage, care supplements and supplements for the blind in analogy to the Act on Cash Income Support for Victims of War (Kriegsopferversorgungsgesetz).

In July 2013, 140 persons received recurring benefits under this title, with budget spending amounting to EUR 3.1 million in 2012.

Under the Act on Compensation for Vaccination-Induced Disabilities, persons are entitled to compensation in case they were vaccinated as prescribed or recommended by law and sustained health impairment. In July 2013, 96 persons were entitled to this kind of support, with total funding amounting to EUR 4.1 million in 2012.

In April 2012, responsibility for enforcing the Victims' Welfare Act (for victims of persecution between 1933 and 1945; Opferfürsorgegesetz) was added to the existing agenda – compensation benefits for victims of war, crime, military service and vaccinations – of the Federal Social Office (Bundessozialamt).

22 Survivors' benefits under income support for victims of war and victims of military service, victims' welfare benefits and compensation benefits for victims of crime are presented in Chapter 5.

23 Hence, these two systems are presented in Chapter 4.

CHAPTER 7

UNEMPLOYMENT BENEFITS

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7.1 OVERVIEW

The most important cash benefits available in the event of unemployment are unemployment benefits (Arbeitslosengeld) and unemployment assistance (Notstandshilfe). A means-tested minimum income scheme called Bedarforientierte Mindestsicherung, which replaces the former social assistance benefits, is available to people in need who have no or insufficiently high entitlements to unemployment insurance benefits.

Entitlements under labour law in respect of unemployment and of termination of employment contracts (severance pay, employee income provision fund, dismissal compensation for lost earnings, etc.) are described in Chapter 12. According to ESSPROS, EUR 4.6 billion were spent on unemployment benefits, active labour market policies and

services, and on the public employment service in 2012. This is equivalent to 1.5% of GDP.

Austria's unemployment rate was 4.3% (according to the standard EU-wide calculation method) in 2012 and thus clearly below the EU average of 10.5%.

On an annual average 260,643 workers were registered as unemployed in 2012 with the public employment service. This figure rose to 287,206 in 2013. 849,543 workers in total were affected by unemployment at least once in 2012, while in 2013 this figure rose to 885,852. The average duration of unemployment (until exiting from the unemployment register) was 97 days in 2013. In October 2013 the number of beneficiaries was 126,942 (unemployment benefits) and 121,102 (unemployment assistance).

7.2 CONDITIONS FOR ENTITLEMENT TO UNEMPLOYMENT BENEFITS AND UNEMPLOYMENT ASSISTANCE

The majority of employees in Austria is covered by compulsory unemployment insurance. Marginal part-timers earning less than EUR 395.31 a month (threshold defined for 2014), civil servants and most self-employed workers are exempted from unemployment insurance. The self-employed may opt into voluntary unemployment insurance under specific conditions.

Unemployment benefits and unemployment assistance benefits are the most important cash benefits paid by the unemployment insurance scheme. Unemployment benefits are paid for a limited period of time and are followed by unemployment assistance, which may be claimed for an unlimited period of time if certain conditions are met (indigence, means test on own and spouse's/partner's income). Although the unemployment insurance system features minimum-income components (supplementary amount to increase net-replacement rate), it fails to guarantee any minimum benefit. There is a ceiling on the amount of cash benefits disbursed.

The unemployed individual must

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

MINIMUM INSURANCE PERIOD

Entitlement to unemployment insurance (UI) benefits is contingent on a defined minimum period of insurance:

- » First-time claimants need at least 52 weeks of UI-covered employment within a reference period of 24 months prior to asserting their claim.
- » Young adults under 25 years of age only need a minimum of 26 weeks of UI-covered employment within a reference period of twelve months prior to asserting their claim.
- » Individuals who have already received UI benefits need 28 weeks of UI-covered employment within the past twelve months (or a total of 52 weeks of such employment within the past 24 months) to requalify for unemployment benefits.

ABILITY TO WORK

Unemployment insurance cover only relates to workers capable of working. In the event of invalidity or occupational disability, benefits are claimed from social pension or health insurance schemes.

While an unemployed worker's pension application is processed (usually to assess invalidity), she/he may be eligible for an UI-based cash benefit (due in advance). Entitlement to this advance is based on the previously drawn unemployment benefits or unemployment assistance benefits up to the average pension amount expected to be awarded in any given case. If the assessment procedure results in a pension being awarded, the advance payments made by the public employment service (PES) will be repaid from back pension payments.

19,061 persons received advances on their pensions in 2012 (annual average).

REASONABLY SUITABLE EMPLOYMENT

The unemployed worker must be willing to accept a reasonably suitable job or undergo additional training or retraining. A job is considered to be reasonably suitable if it is commensurate with the job-seeker's capabilities and complies with the standards defined in legislation and collective agreements. The job-seeker must be able to reach the place of work within an adequate period of commuter time or, if this is not possible, must be given appropriate accommodation near the workplace. Workplace and working hours must not conflict with statutory care duties (for children).

During the first 100 days of unemployment benefit receipt, placement in jobs other than those previously held is considered unreasonable if such placement makes it much more difficult for the job-seeker to find in the future a job in her/his previous occupation.

During the first 120 days of unemployment benefit receipt, employment in another field of work or in a part-time job is considered reasonable only if the contributory pay amounts to 80% or more of the last pay used as an assessment basis for unemployment benefit calculation. During the remaining period of unemployment benefit receipt employment in another field of work or in a part-time job is considered reasonable only if the contributory pay amounts to 75% or more of the last pay used as an assessment basis for unemployment benefit calculation. Special rules apply to job-seekers previously employed in part-time jobs.

The long-term unemployed who are on unemployment assistance (following expiry of unemployment benefits) can be reasonably expected to even accept low-wage jobs. In such a case, wages must be at least equivalent to the minimum wages defined in the applicable collective agreement.

MAXIMUM PERIOD OF ENTITLEMENT TO UNEMPLOYMENT BENEFITS

Maximum claim duration for unemployment benefits depends on the insurance record accrued within legally defined (and, under certain conditions, extendable) reference periods and on the age of claimants at the time of losing their jobs.

It totals

- » 20 weeks if insurance records show the required minimum of insurance periods
- » 30 weeks if claimants have an insurance record of three contributory years within the past five years
- » 39 weeks if claimants have an insurance record of six contributory years within the past ten years and completed their 40th year of life

- » 52 weeks if claimants have an insurance record of nine contributory years within the past 15 years and completed their 50th year of life
- » 78 weeks upon completion of occupational rehabilitation measures.

Unemployment benefit duration is extended for participants in labour market policy measures (training courses, measures of reintegration) offered by the public employment service. If claimants participate in a labour foundation programme, benefit claim duration may be extended by up to three years, and under certain conditions (job-seekers undergoing longer-term training or being over 50 years of age) it may be extended by up to four years.

Upon exhaustion of unemployment benefits, unemployment assistance is granted for 52 weeks at a time (this benefit is renewable and may be paid up until pension benefits become due or the requirements for drawing pension benefits are met).

SANCTIONS

If an unemployed person fails to accept a vacancy or a training measure offered, she/he will lose entitlement to unemployment benefits (unemployment assistance) for as long as she/he refuses to cooperate; in any case she/he will lose entitlement for a period of six weeks; in repeated cases this period will be extended to eight weeks. Claim duration will be reduced by the period in question (e.g. 30 weeks reduced by six weeks = 24 weeks of claim duration). In cases which merit consideration (e.g. take-up of another job) loss of entitlement will be revoked in full or in part (leniency).

If workers are to blame for losing their jobs or quit their jobs voluntarily, they will not be entitled to unemployment benefits or unemployment assistance in the first four weeks thereafter. Claim duration is not reduced but postponed. Full or partial leniency shall be shown in cases which merit consideration.

EARNING ADDITIONAL INCOME

While on unemployment benefits or unemployment assistance, claimants may earn an additional income up to the marginal earnings threshold (EUR 395,31 a month in 2014) without losing their entitlement to these cash benefits.

If the additional income from temporary employment (i.e. less than four weeks of work agreed upon or performed) exceeds the marginal earnings threshold, 90% of the net income above the threshold is set off against unemployment benefits or assistance benefits.

PROTECTION UNDER SOCIAL INSURANCE LAW

Any claimant of UI benefits is covered by health insurance. In addition, periods of such benefit receipt are credited as insurance periods towards pension insurance (if claimants are born before 1 January 1955 and thus exempted from pension harmonisation rules, these periods are credited as substitute qualifying periods).

7.3 BENEFIT LEVELS

As unemployment benefits are insurance-based benefits, levels depend on previous income from work. Unemployment benefits are composed of the basic benefit amount and, where applicable, of family supplements and additional supplements.

The basic benefit amount is 55% of the average net income of the previous calendar year (if the application is filed in the second half of any given year) or of the penultimate calendar year (if the application is filed in the first half of any given year).

Benefit recipients who need to support family members will receive a family supplement of EUR 0.97 per day for every dependant in addition to unemployment or unemployment assistance benefits.

If the amount of unemployment benefits thus calculated falls below EUR 28.59 (2014) per day (i.e. one thirtieth of the equalisation supplement reference rate for single pensioners under the social pension insurance system), a supplement up to a net replacement rate of 60% of the previous net income will be granted. This ceiling rises to 80%, if family supplements apply. Unemployment cash benefits may be increased by this supplement to no more than the currently applicable equalisation supplement reference rate.

Average monthly unemployment benefits drawn in 2012 amounted to EUR 855 for all claimants, to EUR 763 for women, and to EUR 922 for men (see Table below). The disparity in benefit amounts reflects the gender-related differences in earnings and work histories.

Unemployment assistance amounts to 95% of the previous basic amount plus 95% of the previous supplement to unemployment benefits unless this basic rate exceeds EUR 857.73 (2014 equalisation supplement reference rate). In all other cases, unemployment assistance amounts to 92% of the basic amount of previous unemployment benefits.

Those long-term unemployed who are not entitled to unemployment assistance because of the means test on the spouse's income will get their periods of unemployment credited as pension insurance periods if they are as available for job placement as are actual recipients of unemployment assistance. These individuals are covered by health insurance even if they are not entitled to non-contributory co-insurance.

After six months of benefit receipt, beneficiaries with short insurance periods are subject to defined benefit ceilings. The maximum level varies according to the preceding period of unemployment benefit claim duration:

- » 20 weeks of unemployment benefit claim duration: no more than EUR 28.59 of daily unemployment assistance
- » 30 weeks of unemployment benefit claim duration: no more than EUR 33.33 of daily unemployment assistance (rates for 2014).

As unemployment assistance is only granted to those in need, it is means-tested against the spouse's or partner's earnings. However, such a means test ignores parts of the spouse's/partner's monthly earnings (up to EUR 624 in 2014). This exemption limit rises by EUR 271 a month (2014) with every dependant the spouse or partner has to support. The exemption limits for the partner's earnings and for dependants are higher for persons aged 50plus, i.e. EUR 1,084 and EUR 542 respectively, and for persons aged 55plus, i.e. EUR 1,626 and EUR 813 respectively.

Average monthly unemployment assistance drawn in 2012 amounted to EUR 690 for all claimants (EUR 621 for women, EUR 736 for men, see Table below).

Average monthly benefits under unemployment insurance, 2012 in EUR

	women	men	total
unemployment benefit	763	922	855
unemployment assistance	621	736	690

Source: Federal Ministry of Social Affairs; February 2014

7.4 CASH BENEFITS UNDER UNEMPLOYMENT INSURANCE FOR PERSONS IN EMPLOYMENT

PART-TIME ALLOWANCE FOR OLDER WORKERS

This cash benefit helps to keep older workers in employment. In agreement with their employers, older workers may reduce their working hours and claim wage compensation for earnings lost by the working hours thus reduced. Working time must be reduced by 40-60%. The specific arrangements underlying the reduction of working hours are up to the parties concerned.

Wage compensation must be at least 50% of the difference between the wage paid prior to the reduction of normal working hours and the wage paid for the reduced working hours. Moreover, employers must continue to pay social insurance contributions based on the hours previously worked.

If such an agreement is concluded, employers are entitled to claim refunds from the public employment service for part of the additional expenditure (pay compensation including additional contributions to social insurance). The percentage of additional expenditure to be refunded (benefit to employers) totals 90% in cases where reduced working hours are consumed continuously over an agreed period of part-time work and 50% in cases where reduced working hours are consumed in one single period of leave (for agreements concluded after 31 December 2010); this percentage must not exceed the currently applicable ceiling on insurable earnings.

The entry age for this part-time scheme is 53 years for women and 58 years for men (as of 2011), meaning that older workers may enter this scheme not earlier than seven years prior to reaching statutory retirement age and may remain within the scheme for no more than five years. To qualify, they must have a total of 15 years of UI-covered work within the past 25 years. Agreements on one single period of leave require the recruitment of an unemployed worker to substitute the employee on leave.

17,334 persons on average were in this part-time scheme in 2012 (10,796 women and 6,538 men). Expenditure on the part-time allowance for older workers was EUR 207 million in the same year.

FURTHER TRAINING BENEFIT DURING EDUCATIONAL LEAVE

After six or more months in an employment relationship employees may agree with their employer on taking up educational leave (see also Chapter 12) of between two months (minimum) and one year (maximum) and apply for further training benefit with the public employment service. Claimants qualify for such an allowance if they have accrued the same minimum insurance periods as are required for entitlement to unemployment benefits. The allowance equals the amount of unemployment benefits a given claimant would be entitled to, but may not be less than EUR 14.53 per day (see also section 12.6).

As of 1 July 2013 it is also possible to agree on part-time educational leave (Bildungsteilzeit) of four months (minimum) to two years (maximum) provided that the worker in question has been in employment with consistent hours worked for six or more months (see also section 12.6). If in such a case the working hours are reduced to between 50% (minimum) and 25% (maximum), part-time training allowance (Bildungsteilzeitgeld) may be requested from the public employment service. Claimants qualify for such an allowance if they have accrued the same minimum insurance periods as are required for entitlement to unemployment benefits, and equals EUR 0.76 for each full hour of work by which the weekly normal working time is reduced.

If further training is used to enter tertiary education, claimants of further training allowance must provide evidence every six months (i.e. after each semester) that they have passed tests and examinations in compulsory and optional courses totalling four weekly credit hours or eight ECTS credits. Claimants of part-time training allowance must provide evidence that they have passed tests and examinations for at least two weekly credit hours or four ECTS credits.

8,070 persons (4,854 women, 3,216 men) on average made use of the further training benefit during their educational leave in 2012. (Net) expenditure on this allowance was roughly EUR 91 million.

7.5 SOCIAL PROTECTION IN CASE OF EMPLOYER'S INSOLVENCY

Compensation from the insolvency contingency fund (Insolvenz-Entgelt-Fonds) serves to protect (former) employees against loss of income and delays in the payment of legitimate wage claims in the event of their employer

becoming insolvent.

Employers pay 0.55% of the gross payroll total into a fund, which settles the claims of the workers concerned. In addition to employers' contributions, this cash benefit

is also financed from money recovered in insolvency proceedings and paid into the fund.

Entitlements secured by the insolvency contingency fund include on-going pay, severance pay, compensation for unconsumed annual leave, dismissal compensation for lost earning, claims for damages and company pensions. As a rule, outstanding claims eligible for settlement are restricted to those accruing in between six months before (earliest date) and three months after (latest date) institution of bankruptcy proceedings.

In 2012, roughly 26,800 employees were affected by insolvencies of their employers. The annual total of compensation disbursed by the fund and of contributions paid by the fund to other social security schemes (employees' contributions to regional health insurance funds – GKK – for social health and pension insurance schemes, employers' surcharges for construction workers' paid leave and severance pay fund – BUAK) was EUR 266 million in 2012.

CHAPTER 8

BENEFITS IN CASE OF SICKNESS

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8.1 OVERVIEW

99% of the population are covered by statutory health insurance schemes.

With the introduction of the means-tested minimum income scheme, its beneficiaries are covered by compulsory social health insurance as well (see Chapter 11).

Public expenditure on healthcare (according to ESSPROS) was almost EUR 23.1 billion in 2012, i.e. almost 8% of GDP or 25% of social expenditure. Outpatient and inpatient care account for most (81%) of this expenditure. Another 14% are spent on income support provided by employers and by social health insurance schemes

in cases of temporary incapacity to work due to illness. Irrespective of their individual amount of health insurance contributions, all individuals covered by any one of Austria's social health insurance schemes are entitled to medical care²⁴ by office-based physicians or hospitals. In case of temporary incapacity to work, employees are entitled to sickness benefits which follow on the continued payment of wages by the employer (employers are obliged to continue paying wages for six to twelve weeks, see Chapter 12).

8.2 CONDITIONS FOR ENTITLEMENT TO HEALTH INSURANCE BENEFITS

Although statutory health insurance is linked to gainful activity, it goes far beyond the scope of an insurance for workers. Insurance cover relates not only to direct insurees but also to family members.

Roughly one fourth of health insured individuals are co-insured family members (e.g. children, housewives or househusbands). Co-insurance is non-contributory for the following groups:

- » children
- » individuals who care for the children or have done so for at least four years

- » nursing family members and beneficiaries of long-term care benefits (category 3 and up)
- » particularly vulnerable individuals in need of social protection.

Otherwise, co-insured family members are required to pay an additional contribution of 3.4% of the insured party's gross income. More than 90% of co-insured family members are exempted from contributions.

Non-insured parties may opt into a voluntary insurance scheme to have an insurance of their own. On an annual average, around 130,000 persons were covered by such a voluntary self-insurance scheme in 2012.

8.3 BENEFITS IN KIND BY STATUTORY HEALTH INSURANCE

Most of the benefits available under health insurance schemes are benefits in kind provided by insurance-run facilities (mainly clinics) or – primarily – by entities (hospitals) or office-based doctors under contracts concluded with statutory health insurance (SHI). If patients consult other (i.e. non-SHI) physicians or entities, the costs incurred will be refunded (in part). Basically, all those covered by SHI are free to choose their physicians. If, however, insurees choose treatment by non-SHI physicians ('doctor of choice'), they will have to prefinance this service. Up to 80% of the amount the SHI would be required to pay to SHI physicians for the same treatment will be refunded ex-post at the insuree's request.

MEDICAL TREATMENT

Upon showing their e-card, persons covered by health insurance are entitled to treatment by an SHI physician. The e-card is a chip card used by patients to prove their entitlement to treatment and by SHI doctors or SHI entities to settle their fees with the related health insurance fund. The e-card is subject to an annual service charge of EUR 10.55 to be collected by employers on behalf of their employees. Pensioners, children, low-income earners and individuals suffering from notifiable communicable diseases are exempted from this service charge.

Self-employed persons and civil servants are required to make co-payments of 20% for each medical treatment; farmers pay a lump-sum co-payment of EUR 8.73

24 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).

per quarter (2014), but need not pay any service charge for their e-card. Employees working under contracts governed by private law, as well as pensioners, are not subject to any co-payment.

Some medical services, in particular dental treatment, e.g. dental crowns or bridges, are not covered by statutory health insurance. SHI funds only pay a small contribution towards costs to the insured person. But people in need may claim assistance from a special SHI support fund for such treatments.

Insured persons are entitled to hospital care for unlimited periods of time when required. Health insurance funds have concluded contracts with all public and most private hospitals.

Patients' co-payments for inpatient care range from roughly EUR 9.20 to EUR 11.50 (2013) per day, while those of co-insured family members range from EUR 10.70 to EUR 19.40 (2014). These contributions are to be paid for no more than 28 days per calendar year and waived for particularly vulnerable individuals in need of social protection. Maternity-related hospitalisation is exempted from such contributions as well.

MEDICATION

If medical treatment requires medication, a fixed prescription charge of EUR 5.40 (2014) is to be paid for each medicinal product prescribed. Medication needed for the treatment of notifiable communicable diseases is free of prescription charges. In addition, low-income earners and individuals providing evidence that they incur above average medication expenses due to (chronic) illness or infirmity may request exemption from prescription charges.

There is a cap on prescription charges as of 1 January 2008. Whoever has spent 2% of their annual net income on prescription charges at any point in time during a calendar year will be automatically exempted from paying further charges for the remainder of this year. However, the floor level for annual net income is twelve times

the single reference rate for equalisation supplements (2014: monthly EUR 857.73 multiplied by 12). An application for exemption is not required.

In order to control the cost of medication and to meet quality assurance standards, the Main Association of Austrian Social Insurance Institutions has compiled a catalogue, the so-called 'reimbursement code', of medicinal products which can be obtained free of charge or on certain conditions at the expense of the SHI fund. Some of these medicinal products are subject to approval by the head doctor of the relevant SHI fund.

THERAPEUTIC APPLIANCES AND AIDS

Therapeutic appliances and aids to help people with physical infirmities include spectacles, crutches, wheelchairs, etc. Employees are required to contribute co-payments of 10% of the costs incurred, but no less than EUR 30.20 (2014), while self-employed individuals must make co-payments of 20%. Vision aids are subject to a co-payment of EUR 90.60 (2014). However, there is a ceiling on therapeutic appliance costs covered by social health insurance. Co-payments are reduced for needy persons or children with disabilities, as well as for vision aids for young adults from their 15th to their 27th year.

PSYCHOSOCIAL CARE AND TREATMENT BY NON-MEDICAL HEALTHCARE PROFESSIONALS

Basically, patients requiring treatment by non-medical healthcare professionals – such as physio- and ergotherapists, psychotherapists and clinical psychologists – are eligible for benefits in kind. Physiotherapies, speech and language therapies are usually approved by social health insurance funds for treatment following inpatient care. The health insurance institutions pay a contribution towards the costs of psychotherapy. Other important benefits in kind are measures of primary and secondary preventive care as well as follow-up treatment (at spas or rehab centres).

8.4 CASH BENEFITS IN CASE OF SICKNESS

The most important income substitution benefits in case of sickness include: continued payment of wages by employers as defined by labour law (see Chapter 12) and subsequent sickness benefits paid by the relevant social health insurance fund. Once entitlement to continued payment of wages by employers is exhausted, sick employees are eligible for sickness benefits under the social insurance scheme. Depending on an employee's insurance record, sickness benefit receipt may vary be-

tween six months and one year. The minimum level of monthly sickness benefits is 50% of the previous gross pay, including prorated special bonus payments, or 60% as from the 43rd day of incapacity to work.

Farmers may apply for temporary help in the form of services or cash benefits.

In case of temporary incapacity for work of six or more months (to be ascertained by the competent pension insurance institution at the insuree's request), the worker

concerned is entitled to rehabilitation or retraining benefits (see Chapter 6). Rehabilitation benefits are due – for the duration of temporary disability or incapacity for work – in the same amount as sickness benefits and, as from the 43rd day, in the same amount as increased sickness benefits but at least in the amount of the equalisation supplement reference rate for single persons if the beneficiary's residence is in Austria. If beneficiaries

are entitled to rehabilitation benefits while on sickness benefits, their sickness benefits are suspended up to the amount of rehabilitation benefits.

If, during receipt of rehabilitation benefits, claimants earn money from paid work that exceeds the monthly marginal earnings threshold, they will only be entitled to claim partial rehabilitation benefits.

CHAPTER 9

FAMILY BENEFITS

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9.1 OVERVIEW

According to the ESSPROS methodology²⁵ family benefits accounted for roughly EUR 8.5 billion²⁶ of public spending in 2012. This figure corresponds to approximately 2.6% of GDP and 9% of all social benefits, i.e. one of the highest of EU member states.

Family benefits primarily involve cash benefits and benefits in kind provided to families directly, as well as other family-related benefits made available by the equalisation fund for family allowances.

Cash benefits (totalling EUR 6.3 billion) include, inter alia, family allowances (EUR 3.1 billion), childcare allowances (EUR 1.0 billion), tax credits for children (EUR 1.3 billion), advances on alimony payments (EUR 0.1 billion), subsidies for pupils and students (EUR 0.2 billion) and maternity allowances (EUR 0.4 billion).

Benefits in kind, i.e. subsidies to childcare facilities and subsidies to family services provided primarily by Laender and local governments total EUR 2.2 billion.

Cash benefits mainly include universal transfer payments (i.e. independent of gainful activity and income): family allowance, tax credit for children and childcare allowance.

In addition, there are a number of insurance benefits based on gainful activity and income earned (e.g. maternity allowance before and after childbirth), as well as benefits which are only awarded to those in need and/or means-tested against incomes. Tax-based measures are of great importance in supporting families.

Employees' entitlements under labour law primarily aim to ensure adequate reconciliation of work and family life (see Chapter 12).

Family benefits in Austria

cash benefits for families from the Family Burdens Equalisation Fund

family allowance	transfer payments to all families with children, irrespective of income or employment; vary according to age groups and number of children (sibling supplement scale - Geschwisterstaffelung); supplement for children with severe disabilities
allowance at the beginning of a new school year	lump sum of EUR 100 granted in September each year for children aged 6-15 years
multiple-child supplement	means-tested benefit in addition to family allowance for families with at least three children and with a maximum annual family income of EUR 55,000
childcare allowance	transfer benefit for childcare
supplement/allowance to childcare allowance	for low-income parents
advances on alimony payments	If the person obliged to pay alimony defaults on such payments, the government pays advances on the alimonies a child is entitled to under law.
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 alimony (for 2014)
children's supplement	added to pensions (from retirement and accident schemes)
maternity allowance	insurance benefit for mothers; 8 weeks before and 8 weeks after childbirth (12 weeks after caesarian section and multiple births)
childcare subsidy	in line with active labour-market policies

²⁵ Under ESSPROS family-related tax benefits, with the exception of tax credits for children, are not considered social expenditures; this also goes for periods of child-rearing creditable towards pension entitlements; social health insurance for family members and medical checkups under the maternity health card programme. Free transport to school and free textbooks are deemed to be educational rather than social benefits. (Note: of the EUR 6 billion FLAF benefits in 2008 EUR 555.8 million were spent on pension contributions for periods of child-rearing. In 2011 three quarters of family benefits – roughly EUR 850 million – were paid from FLAF money and one quarter from general government funds.)

²⁶ See Table in Chapter 3, "Total of social benefits: cash and in-kind benefits 2012", Function family/children, expenditure in million EUR; ESSPROS database sozialministerium.at

Family benefits in Austria (continued)

benefits in case of indigence	
benefits in case of indigence	in line with means-tested minimum income, housing assistance and pension insurance
tax benefits	
tax credit for children	uniform deductible amount per child to take the costs of raising children into account
single earner's tax credit and single parent's tax credit	for taxpayers with one or more children
tax credit for child support	monthly deductible amount for alimony for children who do not live in the same household and for whom mandatory alimony is paid
tax deductibility of childcare costs	up to an amount of EUR 2,300 per year and child and until the child is 10 years old (2014)
tax exempt amount for children	EUR 220 annually per child (2014)
subsidies for childcare paid by the employer	up to EUR 500 per year and child for childcare concerning children under the age of 10
other benefits	
crediting periods of child-rearing under the pension insurance	up to the fourth birthday of a child (in multiple births up to the fifth birthday of the children)
co-insurance under health insurance	for family members who are not subject to statutory insurance (largely non-contributory)
kindergartens, crèches and after-school day-care centres	free for certain age groups or subject to cost contribution
maternity health card	before and after childbirth
free travel to school/training location	deductible amount of EUR 19.60 (2014)
textbooks	no co-payment as from schoolyear 2011/2012
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 unpaid 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: Federal Ministry of Social Affairs; February 2014

9.2 BENEFITS FROM THE FAMILY BURDENS EQUALISATION FUND

The Family Burdens Equalisation Fund (Familienlastenausgleichsfonds – FLAF) is Austria’s key instrument in supporting families. More than 80% of its funds are raised by wage-based employers’ contributions, which amount to 4.5% of the payroll total. The balance is covered by general tax revenue.

Family allowances (Familienbeihilfen) account for approximately 50%, i.e. for the largest portion in quantitative terms, of FLAF-funded family benefits. Childcare allowances require 17% of FLAF monies. Other important family-policy measures of the FLAF include benefits in kind (e.g. free textbooks and free transport to school subject).

Expenditure of the Family Burdens Equalisation Fund, 2012, in EUR millions

Family Burdens Equalisation Fund	
family allowance	3,138.31
childcare allowance	1,162.33
advances on alimony payments	122.00
school commuting and apprenticeship grants	7.81
free commuting to school/training location for pupils and apprentices	405.05
textbooks	107.14
other expenses (e.g. hardship compensation, family counselling centres, transfers to other social protection systems)	1,347.11
total	6,289.75

Source: Statistics Austria/Federal Ministry of Social Affairs: ESSPROS database; annual federal accounts (16 September 2013). (Under the ESSPROS methodology any education-related expenses of the FLAF, e.g. textbooks, free commuting, are not taken into account.)

FAMILY ALLOWANCE

There is a general entitlement to family allowances for all under-age children. If children of age are still in training or education, family allowance will be due until these young adults turn 24 or, in exceptional cases, 25. No age limit applies to children with severe disabilities who are unable to work.

Up to the calendar year in which a child turns 19 his or her income is irrelevant for entitlement to family allowance. If a child earns income from work as of the calendar year in which he or she turns 20, such taxable income may not exceed a total of EUR 10,000 per year in order to retain entitlement to family allowances. Under taper arrangements introduced in 2013 families whose children earn more than EUR 10,000 a year must repay only the amount by which this threshold figure is exceeded.

Family allowances are paid to Austrian citizens with permanent or habitual residence in Austria for children who permanently reside and/or have their centre of vital interests in the country.

There are special rules for EU, EEA, and Swiss nationals (since 1 May 2010 primarily governed by Regulation (EC) no. 883/2004 and Implementing Regulation 987/2009), while Regulations (EEC) no. 1408/71 and no. 574/72 apply to nationals of countries where Regulation (EC)

no. 883/2004 enters into force at a later point in time and to cases in the process of being phased out. Under the ‘country of employment’ principle, the country where a person is employed is required to pay family benefits even if the child in question lives in another member state.

All other foreign nationals are entitled to family allowances for children living in Austria if their stay in the federal territory is lawful and not only temporary. Furthermore, recognised refugees and persons granted subsidiary protection status (in employment but without entitlement to basic services) may claim family allowances.

Family allowance is paid to the person whose household the child belongs to; if parents share the same household, the allowance is due to the parent primarily running the household, i.e. the mother according to the rebuttable presumption established by legislation. Subsidiary entitlements to family allowances arise for those paying most of the costs of child support.

Children themselves are only entitled to claim family allowances if they are orphans or if their parents fail to provide most of the children’s living costs; no such entitlement arises for children placed in institutional care at the expense of youth welfare or social assistance programmes.

Family allowances vary according to age and number of children in a family. They are tax-free.

As of July 2014 family allowances, increments by number of siblings²⁶ as well as supplements for children with severe disabilities²⁷ will be raised in three steps²⁸: in July 2014 by 4%, in January 2016 and 2018 by another 1.9% each time.

The following Table lists the amounts paid in 2014 according to age groups:

Family allowance amounts in EUR by age group

age	until June 2014	from July 2014 ¹
0-2 years	105.40	109.70
3-9 years	112.70	117.30
10-18 years	130.90	136.20
ab 19 years	152.70	158.90

Source: Federal Ministry of Social Affairs, BMF; February 2014

¹ The next increases (1,9 percent each) are planned for 2016 and 2018.

(For further amounts and information refer to the website of the Federal Ministry of Families and Youth www.bmfj.gv.at) In 2011 a new programme was launched, under which subsidies (Schulstartgeld) of EUR 100 for each child aged six to 15 years are disbursed, together with family allowances, in September each year to help fund the greater expenses incurred by families at the beginning of a new school year.

To counteract the special risks of poverty of families with several children, a multiple-child supplement (Mehrkindzuschlag) is awarded to families with three or more children. A supplement of EUR 20 per month is granted for the third and for each further child permanently living in the federal territory (or in the EU territory) and eligible for family allowance, unless the taxable family income exceeds EUR 55,000 per calendar year. Multiple-child supplements are to be claimed together with the income tax assessments of the employees concerned.

Alongside family allowances, families are also entitled to tax credits for children (see section 9.5). These tax credits are disbursed together with family allowances.

Examples of cases: monthly family allowances and tax credits¹ for children by age and number of children in households, as from July 2014, in EUR

family with child/ren of varying ages	1 child aged 5 years	2 children aged 1 and 3 years	3 children aged 9 years, 13 years and 16 years	4 children aged 1 year, 6 years, 10 years and 20 years
family allowance	117.30	227.00	389.70	522.10
tax credit for children	58.40	116.80	175.20	233.60
sibling supplement scale	-	13.40	49.90	102.00
total	175.70	357.20	614.80	857.70

¹ Calculation: Federal Ministry of Social Affairs; 25 February 2014

In 2012, family allowances were paid to 1.75 million children, whereof (annual average) 224,770 children were aged 0-2 years, 548,513 3-9 years, 764,699 10-18 years, and 206,536 19 years or older. A supplement was paid for 75,084 children with severe disabilities. About 10% of the children were non-Austrians.

CHILDCARE ALLOWANCE (KINDERBETREUUNGSGELD, KBG)

Since 1 January 2010 parents may choose from among five options of childcare allowance from two schemes. This is primarily intended to improve work-life balance, increase the involvement of fathers and enable better earning parents to earn adequate additional income.

The three original models of childcare allowance remain in force, but they have been supplemented by

²⁷ The monthly total of family allowance increases with the number of siblings (Geschwisterstaffelung), i.e. for each additional child it increases by a certain EUR amount. Till June 2014 this increment will be EUR 6.40 for two children, EUR 15.94 for three children and EUR 24.45 for four children.

²⁸ As of July 2014 the supplement for a child with severe disabilities will be raised from EUR 138.30 to EUR 150.00 (2016: EUR 152.90, 2018: 155.90).

²⁹ At the time this publication went into print (March 2014) the amendment to the Family Burden's Equalisation Act (Familienlastenausgleichsgesetz) was not yet adopted by parliament.

two additional options (applicable to births on or after 1 October 2009), i.e. an income-related childcare allowance and a short-term flat-rate allowance of EUR 1,000 per month. In addition, the exemption limits for additional earnings have been revised and special rules for single parents have been introduced. The supplement to the childcare allowance has been remodelled into a grant, while the minimum duration of childcare allowance and of parental leave under labour law has been reduced from three to two months.

Flat-rate system (four options)

Option 30 plus 6 (approx. EUR 436 per month)

One parent may claim childcare allowance till the 30th month of the child. If parents alternate drawing childcare allowance, this period will be extended up to the end of child's 36th month of life.

Option 20 plus 4 (approx. EUR 624 per month)

One parent may claim childcare allowance till the 20th month of the child. If parents alternate drawing childcare allowance, this period will be extended up to the end of child's 24th month of life.

Option 15 plus 3 (approx. EUR 800 per month)

One parent may claim childcare allowance till the 15th month of the child. If parents alternate drawing childcare allowance, this period will be extended up to the end of child's 18th month of life.

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

One parent may claim childcare allowance till the 12th month of the child. If parents alternate drawing child-

care allowance, this period will be extended up to the end of child's 14th month of life.

Income-related childcare allowance (12 plus 2)

Under the income-related childcare allowance scheme, one parent may claim 80% of the net income last earned up to the 12th month of the child, but no more than EUR 2,000 per month, in childcare allowance. If parents alternate drawing childcare allowance, this period will be extended up to the end of the child's 14th month of life.

GENERAL INFORMATION

Childcare allowance may be claimed if parents also claim family allowance (Familienbeihilfe) for the child in question, the centre of vital interest of the requesting parent(s) is in Austria, the requesting parent(s) share(s) a common household with the child, complies/comply with the exemption limits per calendar year and mother and child undergo ten check-ups as required by the maternity health card programme (five examinations during pregnancy and five examinations of the child from age 0 to 14 months).

Non-Austrians must be settled in Austria and/or meet certain requirements under asylum law. In cross-border cases, Regulation (EC) no. 883/2004 applies to determine which of the member states concerned is responsible for paying family benefits.

No matter which of the five options is chosen, parents may swap claim roles twice, with one such period lasting no less than two months.

Overview of the 5 options of childcare allowance

	Income tested	12+2 months	15+3 months	20+4 months	30+6 months
Amount of childcare allowance in EUR	80% of the last net-income, max. 2,000	approx. 1,000	approx. 800	approx. 624	approx. 436
Possibility of additional income	EUR 6,100 per annum	60% of earnings in a calendar year before birth and before receiving childcare allowance; min. EUR 16,200			
Max. of benefit duration for one parent	until completion of the child's 12 th month	until completion of the child's 12 th month	until completion of the child's 15 th month	until completion of the child's 20 th month	until completion of the child's 30 th month
Max. of benefit duration for both parents	until completion of the child's 14 th month	until completion of the child's 14 th month	until completion of the child's 18 th month	until completion of the child's 24 th month	until completion of the child's 36 th month
Multiple-child supplement per child and month in EUR	none	approx. 500	approx. 400	approx. 312	approx. 218

Source: BMFJ (Federal Ministry of Families and Youth)

Claimants are health-insured while receiving childcare allowance.

In special cases of hardship (death, committal to mental hospital or nursing home, cases of domestic violence identified by courts or public authorities, stay in women's refuge, imprisonment), childcare allowance under any of the above options may be extended by up to another two months beyond the maximum period of entitlement which is due to one parent without swapping claim roles. Moreover, claim duration may be extended if one parent has been single for at least four months at the time of period extension, has filed an application for maintenance (alimony) and earns no more than EUR 1,200 net in the past four months and/or the period of extension (plus EUR 300 for every dependant person in the household). In the case of multiple births, childcare allowances in any of the flat-rate options will be raised by 50% of the applicable basic amount (see Table) for the second and for every other child born.

For births on or after 1 January 2010 a grant of EUR 6.06 per day may be claimed in addition to the flat-rate childcare allowance. This grant replaces the supplements awarded under certain conditions for births until 31 December 2009.

The grant is available to single parents who are eligible for childcare allowance and earn no more than EUR 6,400 per calendar year, as well as to parents who are married or cohabiting with a partner, with the claiming parent earning no more than EUR 6,400 and the other parent/partner no more than EUR 16,200 per calendar year. This grant supplementing the childcare allowance may be claimed for no more than twelve calendar months following application irrespective of the chosen flat-rate option.

Flat-rate childcare allowances are subject to individual exemption limits: a parent may additionally earn up to 60% of the income last earned in the relevant calendar year prior to the child's birth in which no childcare allowance was claimed (restricted to the third year prior to the child's birth). In cases where this individual exemption limit is below EUR 16,200, it will be fixed at EUR 16,200 per calendar year. Under the income-related childcare allowance, exemption limits for additional earnings are EUR 6,400 per calendar year, i.e. roughly the marginal earnings threshold.

If the exemption limit is exceeded, parents will have to repay the amount by which this limit has been exceeded to the childcare allowance scheme.

(For more detailed information refer to the brochure on 'Support for families in Austria and child care allowance' of the Federal Ministry of Families and Youth.)

In December 2013, childcare allowances were claimed by 130,849 persons. In December 2011, roughly 6,200 persons received a supplement and 14,900 a grant in addition to childcare allowances, while 2,700 persons received an increased childcare allowance for multiple births.

FLAF spending on childcare allowances (including supplements) in 2012 totalled EUR 1.06 billion.

ADVANCES ON ALIMONY PAYMENTS

If a parent not sharing the same household with her/his children fails to meet (in due time) her/his legally effective and officially defined alimony obligations for under-age children, and if an appropriate execution request has been filed, advances on alimony payments will be paid from the Family Burdens Equalisation Fund (FLAF) upon request. As a matter of principle, the amount paid will be equivalent to the alimony due. The person obliged to pay alimony must repay these advances to the FLAF, which is thus able to recover some 57% of the relevant expenses. The FLAF disbursed advances on alimony payments for an annual average of 46,580 children in 2012, with expenditure on such payments amounting to EUR 122 million in the same year.

EDUCATIONAL EXPENDITURE PAID FROM THE FLAF

The government pays the costs of commuting between home and school or place of training for children and adolescents attending as full-time pupils a public or officially recognised school, as well as for apprentices. The contribution towards costs per schoolchild/apprentice and school year/training year is a lump sum of EUR 19.60. If no appropriate means of free transport is available, pupils and apprentices who have to travel a distance of more than 2 km (one-way) are entitled to (school) commuting grants. If pupils or apprentices need to stay away from their main residence for education and training (boarding school, apprentices' home), they are eligible for home commuting grants.

The FLAF-funded textbook initiative (Schulbuchaktion) aims to provide pupils with the required teaching and learning materials free of charge. Every school year more than eight million textbooks are procured for 1.2 million pupils. Annual spending on this textbook initiative totals roughly EUR 105 million or an average of eight textbooks per pupil and school year at a price of EUR 90 for teaching and learning. As of the 2011/2012 school year parents need not contribute towards these costs any more.

9.3 FAMILY BENEFITS UNDER STATUTORY HEALTH, PENSION AND UNEMPLOYMENT INSURANCE SCHEMES

Recognition of child-rearing/childcare periods as periods creditable towards statutory pension insurance under the revised and harmonised pension scheme will depend on whether parents have already entered a professional career (and thus a compulsory insurance scheme) at the time when the relevant act entered into force. As a matter of principle, periods on childcare allowance are no longer relevant for child-rearing credits under statutory pension insurance schemes for those mothers and/or fathers who entered the labour market on or after 1 January 2005 for the first time.

Periods of child-rearing as of 1 January 2005 are subject to compulsory pension insurance for the first four years beginning on the date of birth of a child (or for the first five years for multiple births). If within these four or five years another child is born, the overlapping periods are counted only once. Compulsory insurance results in the accrual of contributory periods.

Transition provisions apply to mothers and/or fathers who, prior to 1 January 2005, entered the labour market for the first time and had not yet completed their 50th year.

Credits for periods of child-rearing according to the previous method are based on the 'old pension law' under which the four years following birth (or five years following multiple births) are to be considered substitute qualifying periods. Periods of child-rearing as of 2002 are calculated as follows: two calendar years on childcare allowance (counted from the date of birth) are recognised as contributory periods under statutory health insurance. The remaining two years (or three years for multiple births) are recognised as substitute qualifying periods. If within these four or five years another child is born, the overlapping periods are counted only once. Under certain conditions, periods of child-rearing – as well as periods on maternity allowance – are deemed to be equivalent to pensionable periods in assessing eligibility for pension benefits under long-term insurance rules for workers and for manual labourers performing heavy work.

The general assessment basis for child-rearing periods, which is valorised each year by the revaluation coefficient, amounts to EUR 1,649.84 in 2014.

Individuals caring for their disabled child are given the option of taking up voluntary non-contributory pension insurance if increased family allowance is paid for the child in question. Persons nursing a close relative may also opt into voluntary non-contributory pension insur-

ance. They are eligible for non-contributory entry into the scheme if the relative they are nursing has qualified for category 3 and up of long-term care benefits.

CHILDCARE SUBSIDY

In order to promote labour market participation of parents of young children, the public employment service grants childcare subsidies to low-earning parents to cover part of their childcare costs. This subsidy is financed by active labour market policy programmes. 5,613 persons (whereof 5,506 women) were granted childcare subsidies in 2011.

CHILDREN'S AND FAMILY SUPPLEMENTS

Claimants of unemployment or pension insurance benefits receive an additional flat-rate amount for each dependant: family supplement (under unemployment insurance) of EUR 0.97 a day (rate for 2014) for each person entitled to this supplement or children's supplement (under pension insurance) of EUR 29.07 a month (rate for 2014).

MATERNITY ALLOWANCE

Maternity allowance (Wohngeld) is an income replacement benefit paid by social health insurance to employed mothers for the period of maternity protection of eight weeks (in special cases twelve weeks) before and after birth, as defined by labour law. No minimum insurance period is required.

The amount of maternity allowance paid to employed women is based on the net income earned in the last three months plus supplements for special bonus payments. Since 1 January 2008, quasi-freelancers (freie Dienstnehmerinnen) have been eligible for income-related maternity allowances. Voluntarily insured marginal part-timers (only if insured according to §19a of the General Social Insurance Act – ASVG) are eligible for a fixed amount of EUR 8.65 per day (rate for 2014). Women drawing benefits under the Unemployment Insurance Act (AIVG) are entitled to maternity allowance amounting to 180% of the benefits last claimed.

Women drawing benefits under the Childcare Allowance Act (KBGG) will receive maternity allowance for another expected child if they were entitled to maternity allowance for the previous birth (i.e. for the child for whom childcare allowance is currently claimed) and claim maternity allowance at the beginning of the period of protection. Upon entry into the period

of maternity protection for another child while drawing one of the flat-rate options of childcare allowance for the previous child, maternity allowance will be fixed at 180% of the monthly flat rate of e.g. EUR 436 (= option 30+6 months for childcare allowance) If the childcare allowance drawn is income-related, maternity allowance will amount to 125% of this income-related childcare allowance.

Self-employed women and female farmers receive maternity benefits in the form of benefits in kind (temporary help). If no such temporary help is granted, these women may be eligible for maternity allowance of EUR 51.20 per day (rate for 2014).

CO-INSURANCE FOR FAMILY MEMBERS

Non-working family members (e.g. children, partners) are health insured together with a working family member who is subject to compulsory social insurance.

Under certain conditions non-contributory co-insurance is available to the following groups:

- » spouses, registered partners and individuals running the household (raising children, caring for others who are eligible for category 3 and up of federal long-term care benefits)
- » children until they turn 18 as well as children in education or training usually until they turn 27 (see chapter 8.2).

MATERNITY HEALTH CARD

Healthcare for pregnant women, mothers and infants in Austria is ensured by the maternity health card programme (Mutter-Kind-Pass). Each pregnant woman and each mother may use this programme for free preventive check-ups. Financial incentives for having these check-ups are created by linking payment of part of the childcare allowance to these examinations.

9.4 CASH BENEFITS FOR FAMILIES IN NEED

FAMILY SUPPLEMENTS OF THE LAENDER

Special financial support for families with young children is available at Laender level. Support is dependent on household income and the number of children (weighted per capita income). Both the eligibility criteria and the amount of family supplements greatly vary from Land to Land.

COMPENSATION FOR FAMILIES IN DISTRESS

This benefit is a tool available under the Family Burdens Equalisation Fund (FLAF). Compensation is a one-time bridge benefit intended to support families in distress through no fault of their own (e.g. death, illness, disability, incapacity to work, accident, natural disaster). There is no recurring subsistence support available. Eligibility is based on entitlement to family allowance or an existing pregnancy. Claimants of such a compensation for families in distress must be EU citizens, recognised refugees or stateless persons.

There is no legal entitlement to compensation for families in distress.

In 2012, 210 such compensation payments totalling EUR 495,745 were granted, with roughly 70% of them going to single-earner families.

FAMILY HOSPICE LEAVE – COMPENSATION FOR DISTRESS

The compensation measure is intended to support the family hospice leave programme introduced in 2002 (see Chapter 12) and enables low-income families to take up this kind of leave. Whoever takes time off work with full rights under labour and social legislation to nurse and accompany a dying relative or seriously ill child (family hospice leave) may claim supplements from the leave programme's compensation scheme to alleviate the financial distress resulting from such a decision. Eligibility is conditional on a weighted monthly per-capita income of no more than EUR 850 (2014; not including family allowance, housing subsidy, long-term care benefit and childcare allowance).

382 of these supplements totalling EUR 1,048,531 were awarded in 2012. Their average monthly amount was EUR 772 (ranging from EUR 27 to EUR 2,928 per month depending on the income of the household concerned). In 43% of the cases all of the lost earnings could be replaced because of the low income situation of these families.

9.5 SUPPORTIVE TAX MEASURES FOR FAMILIES

The Austrian tax system supports families primarily through tax credits for children, tax credits for child support and sole earner's or single parent's tax credits. 1 January 2009 saw the introduction of the following measures: subsidies for childcare paid by employers, tax deductibility of childcare costs and a tax allowance for children.

TAX CREDIT FOR CHILDREN AND FOR CHILD SUPPORT

The credits for children and for child support are intended to make up for part of the decreased economic capacity of taxpayers liable to support children. The tax credit for children is EUR 58.40 per month and child and is disbursed together with the family allowance.

Tax credits for child support, in turn, are granted to taxpayers who are liable under law to pay alimony for a child who does not live in the same household and for whom they do not receive family allowance. The tax credit for child support amounts to EUR 29.90 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'S TAX CREDITS

The annual sole earner's or single parent's tax credits are:

- » EUR 494 for one child
- » EUR 669 for two children
- » EUR 889 for three children
- » the above amount is increased by EUR 220 for each further child.

SUBSIDIES FOR CHILDCARE PAID BY EMPLOYERS

Introduced in 2009, this scheme gives employers the option of granting childcare subsidies to their employees of up to EUR 500 per year for children under ten years of age. The subsidies are not subject to taxation or social insurance contributions. They are conditional on childcare being provided by a public childcare facility, or by a private facility which complies with the related Laender legislation, or by an individual with appropriate educational training and qualifications.

Subsidies are paid either to the caregiver or childcare facility directly, or in form of vouchers which can be cashed at childcare facilities only.

In order to benefit from employers' subsidies to childcare, employees must be entitled to tax credits for the child in question for more than six months during a calendar year.

TAX DEDUCTIBILITY OF CHILDCARE COSTS

Tax deductions may be claimed for childcare costs of up to EUR 2,300 per year and child (including costs for care, meals, arts and crafts, as well as all costs of school-holiday care). The child under care must not have completed her/his tenth year of life at the beginning of the calendar year in question. Eligibility is conditional on childcare being provided by an appropriate institution which complies with the related Laender legislation, or by an individual with appropriate educational training and qualifications. If childcare costs are supported by employers' subsidies (see above), eligible taxpayers may deduct the costs which are not covered by these subsidies up to the amount referred to above. In order to claim tax deductibility of childcare costs, taxpayers must be entitled to tax credits for the children in question for more than six months during a calendar year.

TAX ALLOWANCE FOR CHILDREN

The allowance is EUR 220 per year and child. Parents subject to wage or income tax are eligible for allowances for children, with such allowances reducing their basis of tax assessment.

The tax allowance may be claimed by one parent or by both parents. If both parents claim the allowance, each parent may claim 60%, i.e. EUR 132, of the total. If a parent claims tax credits for child support, each of the two parents may deduct an allowance for the child in question of EUR 132. Hence a single parent may claim an allowance of EUR 220 for a child if the other parent fails to pay support for this child.

In order to claim tax allowances for children, taxpayers must be entitled to tax credits for the children in question for more than six months during a calendar year.

OTHER TAX INCENTIVES FOR FAMILIES

Taxpayers may deduct certain special expenses (e.g. on personal insurance policies, on new homes or on upgrades to existing homes) even if they defray these expenses not for themselves but for spouses/partners who are not permanently separated from them or for their children. The uniform annual maximum amount of EUR 2,920 for special expenses is increased by another EUR 2,920 per year, if the taxpayer in question is entitled to the sole earner's or single parent's tax credit, and/or by EUR 1,460 per year if the taxpayer has three or more children, with such deductions being claimed by no more than one taxpayer per child.

Tax allowances for extraordinary burden may be claimed together with the income tax assessments of the workers concerned. Extraordinary burden includes:

- » costs incurred due to illness (also for dependant relatives): e.g. doctor's fees, cost of medication, hospitalisation, dental treatment, dental braces, glasses, contact lenses, childbirth
- » costs incurred due to education/training of a child away from home (lump sum of EUR 110 per month, also during school and university holidays)
- » costs incurred by working single parents for child-care or home help subject to co-payment.

No co-payment is required in the case of flat rate deductions for disabilities of adults and children (not applicable if long-term care benefits are claimed for adults). Moreover, costs of medical treatment are tax deductible; sole earners may also claim deductions for additional expenses incurred due to the disability of a spouse or partner. In addition to the increased family allowance, a monthly lump sum may be claimed for seriously disabled children and has to be set off against the long-term care benefit received; the costs for medical treatment and tuition fees also need to be considered in such cases.

CHAPTER 10

CARE BENEFITS

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10.1 OVERVIEW

Due to the rapidly rising number of very old people, the risk of dependency on care has turned into a growing socio-political challenge. Austria's long-term care system was revised in the 1990s.

In place since 1993, the Federal Long-Term Care Benefit Act (Bundespflegegeldgesetz – BPGG) and the related Laender acts replaced the previous system of numerous of cash benefits, which varied both in terms of benefit levels and eligibility criteria. Longer-term plans were established in 1994 for upgrading social services under which the Laender agreed to create minimum standards for extramural, intramural and daycare services by 2010. Target attainment has meanwhile been evaluated and the agreed plans are constantly being improved to meet the requirements of new forms of nursing care and of demographic developments.

Under the 2012 revision of the Long-Term Care Benefit Act, lawmaking and law enforcement powers have been transferred from the Laender to the federal government, thus pooling responsibilities for long-term care at the

federal level. The Laender's previous long-term care benefit acts were repealed on 31 December 2011. This means a reduction in the number of decision makers from over 300 to seven in 2013 and can thus be considered a model of administrative reform.

With the 2013 Labour Law Reform Act (Arbeitsrechts-Änderungsgesetz – ARÄG 2013) the Federal Long-Term Care Benefit Act (Bundespflegegeldgesetz – BPGG) was revised and introduced yet another reduction of bodies responsible for long-term care benefit enforcement down to five decision makers as of 1 January 2014 (PVA, BVA, VAEB, SVB, SVAGW).

Long-term care benefits paid at federal and Laender levels in 2012 accounted for roughly EUR 2.6 billion of public spending (according to ESSPROS methodology), i.e. 0.9% of GDP or 2.9% of social spending. The Laender's net spending on benefits in kind under the long-term care system was EUR 1.7 billion in 2012 (Federal Ministry of Social Affairs/Statistics Austria; statistics on care services in 2012).

10.2 LONG-TERM CARE BENEFITS

Long-term care benefits are earmarked benefits for the sole purpose of covering care-related additional expenses and are thus not meant to raise incomes in general. As the actual costs of care exceed the relevant long-term care benefits in most cases, they are to be regarded as a lump-sum contribution towards care costs. This type of benefit enables individuals in need of care to be somehow independent and remain (longer) in their familiar environment.

The amount of long-term care benefits is exclusively based on actual care and assistance requirements. Long-term care requirements due to physical, mental or psychological disabilities or sensory impairment must be for at least six consecutive months and average more than 60 hours per month.

Long-term care benefits are awarded irrespective of the root cause of care needs, but also irrespective of income, property or age of claimants. However, in most cases claimants are old people. Claimants are legally entitled to long-term care benefits.

Pension or retirement benefit claimants file their applications for long-term care benefits with the competent insurance institution. Employees, co-insured family members and claimants of minimum income or rehabilitation benefits may request long-term care benefits from

their pension insurance institution. Retired civil servants receiving pensions from Laender or local governments must turn to the pension service of the statutory insurance institution for public-sector employees and civil servants (BVA).

Care categories: benefit levels and care needs

care category	monthly benefit ¹ in EUR	care need in hours
1	154.20	more than 60
2	284.30	more than 85
3	442.90	more than 120
4	664.30	more than 160
5 ²	902.30	more than 180
6 ²	1,260.00	more than 180
7 ²	1,655.80	more than 180

Source: Federal Ministry of Social Affairs; March 2014

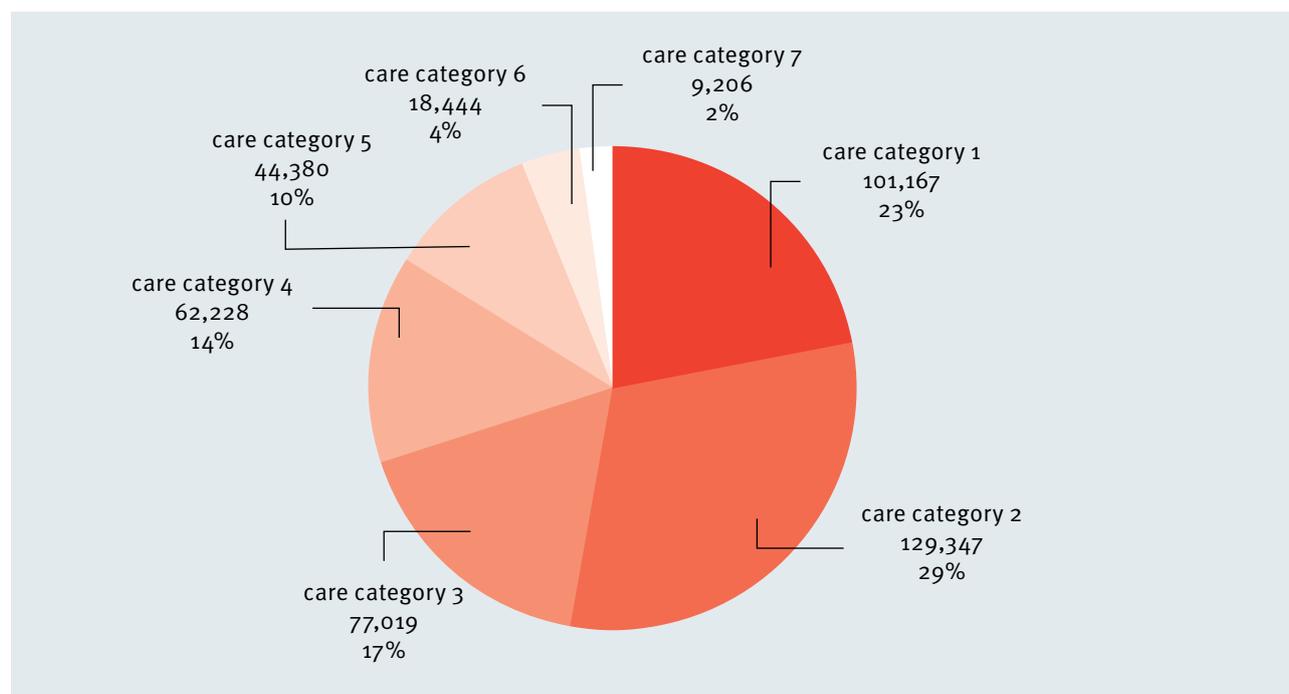
¹ Amounts as from January 2011.

² In addition to the required hours of care also quality criteria are considered (e.g. exceptional care requirements, non-scheduled care measures, permanent attendance of carer, etc.).

There are seven categories of long-term care benefits. Assessment of categories 1 to 4 is based on the time required for care every month (more than 60 hours for category 1, more than 85 hours for category 2, more than 120 hours for category 3 and more than 160 hours for category 4). Categories 5 and up are based not only

on the time required for care of more than 180 hours per month but also on quality criteria. Since long-term care benefits are lump-sum contributions towards care-related additional expenses, the actual costs incurred for care in any given case are not considered when determining the category.

Percentage share of long-term care benefit claimants in their peer groups, October 2013



Source: Federal Ministry of Social Affairs, statistics on long-term care benefits of the Main Association of Austrian Social Insurance Institutions

Detailed provisions for the assessment of care needs are included in the classification ordinance (Einstufungsverordnung) issued under the Federal Long-Term Care Benefit Act. The classification ordinance includes definitions of care and assistance and time units for individual activities, e.g. dressing and undressing, personal hygiene, preparing and eating meals, as well as mobility assistance. The decision on long-term care benefits is based on a medical expert opinion, i.e. a doctor's opinion. As of 1 January 2012 intermediate-level health and nursing care professionals may also be consulted as experts concerning requests for changeover to a higher benefit category if the previous assessment procedure has resulted in category 4 and up with more than 180 hours of time required for care. Assessments are usually made in the course of home visits. If required, other experts from other fields – therapeutic and special education, social work, psychology and psychotherapy – need to be consulted to assess the overall situation.

The special needs of people with mental and psychological disabilities are also considered in the classification ordinance: guidance and supervision are deemed to be equivalent to care and assistance, and time units needed for motivational discussions are listed.

In 2009, the following flat rate values (hardship supplements) were introduced for aggravating factors in long-term care situations:

- » 50 hours per month for children 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.
- » 25 hours per month for persons aged 15 and up and suffering from serious mental or psychological disabilities or dementia

Classification is based on functional criteria. Minimum classification rules for people with severe visual disabilities, blind and deaf-blind people, as well as for people

who need to use a wheelchair to lead an independent life, are set forth to meet their care-related needs.

Benefit categories one and two account for more than half of all long-term care benefits drawn by beneficiaries (52%), while categories three to five account for 42% and the two highest categories for 6%. Owing to women's longer life expectancy roughly two thirds of recipients are female (about 66%).

Less than 1% of age group 21 to 40 years draw long-term care benefits, 2% of age group 41 to 60, 9% of age group 61 to 80 and 60% of age group 80 and above.

3% of long-term care benefit claimants are under 20 years of age, 4% between 21 and 40 years, 11% between 41 and 60 years, 31% between 61 and 80 years, and 51% are over 80.

Percentage share of long-term care benefit claimants in their peer groups

age	women	men	men and women
0 - 20	0.6%	0.9%	0.7%
21 - 40	0.8%	1.0%	0.9%
41 - 60	1.8%	1.9%	1.9%
61 - 80	10.1%	7.8%	9.0%
81 +	67.7%	44.6%	60.3%
total	6.7%	3.7%	5.2%

Source: Federal Ministry of Social Affairs: Austrian Report on Long-Term Care Provision 2012; Statistics Austria
Long-term care benefit claimants at federal level as at December 2012; population as at 2012.

10.3 SUPPORT MEASURES FOR CAREGIVING RELATIVES

Another objective of Austria's long-term care system is to strengthen and support the position of caring relatives. For this purpose numerous measures have been taken:

- » Individuals who care for a close relative of benefit category 3 and up, and who had to give up their job or reduce the hours worked in their job for this reason, are offered preferential terms for self-insurance or continued insurance under the statutory pension system. The employers' and employees' contributions required for such insurance schemes are paid by the state for an unlimited period of time.
- » Individuals who care for a disabled child and meet the requirements for voluntary pension insurance while caring for this disabled child, may opt into voluntary health insurance since 1 January 2013 if they are in need of social protection, are no compulsory members of any social insurance scheme and no eligible dependants of a compulsory member of any social health insurance scheme.
- » Relatives are co-insured under the health insurance system if they care for an insured person entitled to long-term care benefits of category 3 or higher.
- » Financial support may be granted to close relatives who have been the primary caregivers for one or more years³⁰, and who are prevented from provid-

ing care due to illness, holidays or other important reasons. Other improvements have been introduced, e.g. measures in the context of family hospice leave (advance payment, modified disbursement).

- » Throughout Austria certified healthcare and nursing professionals visit the homes of all recipients of long-term care benefits to inform and counsel all those involved in the specific care situation in order to assure the quality of home care.
- » Multi-professional dementia teams are supported by the Federal Ministry of Social Affairs to clarify questions relating to dementia, provide assistance and care during home visits and offer tailor-made solutions to those concerned.
- » In a parliamentary resolution of 8 July 2011 the Federal Minister of Labour, Social Affairs and Consumer Protection was requested to commission a "study on the situation of caring children and young people" in Austria. This study was to identify the need of supporting measures for this special group of young carers and provide recommendations for different levels of action. Their proportion was identified to be 3.5% or roughly 42,700 caring children and young people aged 5 to 18 years. Their average age is 12.5 years, 70% of them being female.³¹

³⁰ The person cared for must be a recipient of long-term care benefits of category 3 or higher (category 1 in case of verifiably demented or under-age family members in need of care).

³¹ The unabridged German version of this study and an English summary "Children and Adolescents as Informal Caregivers" are available at sozialministerium.at. Based on these results the Ministry has commissioned a scientific research project to develop a blueprint and plans for family-oriented support measures for young carers. Final results are expected for autumn 2014.

- » As of January 2014 workers may take care leave or part-time care leave involving legal entitlement to care leave benefits, which will be discussed in greater detail in section 10.4 below.

Important liaison centres to assist caring relatives and the people they care for: the **care hotline** (Pflegetelefon), the **platform for caring relatives** (www.pflegedaheim.at), and the **database on therapeutic aids** (Hilfsmittelinfo, an Internet-based information pool on technical aids, www.hilfsmittelinfo.at).

10.4 CARE LEAVE BENEFITS

As of 1 January 2014 workers (under private law employment relationships, public-sector employees and unemployed persons) may take

- » care leave (with no wage or salary being paid) or
- » part-time care leave (with prorated payment of wage or salary).

In order to support caring and nursing family members taking care leave (Pflegekarenz) or part-time care leave (Pflegeteilzeit) or family hospice leave (Familienhospizkarenz) or part-time family hospice leave (Familienhospizteilzeit), these family members may claim care leave benefits under certain conditions.

The following persons are entitled to care leave benefits:

- » Persons who have agreed on care leave or part-time care leave with their employer;
- » Persons who take family hospice leave or part-time family hospice leave for the purpose of nursing a dying close family member or a seriously ill child;
- » Persons who have deregistered from unemployment benefits or unemployment assistance for the purpose of taking care leave or family hospice leave.

A close family member may draw care leave benefits for one to three months during care leave or part-time care leave, depending on the period of leave agreed with the employer. During care leave or part-time care leave, care leave benefits may be claimed for up to six months for each family

member in need of care (provided that at least two close family members take care leave/part-time care leave).

If care needs increase substantially – by one or more care benefit categories – carers may reapply for care leave benefits for up to six months after having agreed with their employers on renewing their care leave or part-time care leave for the same family member (unless such leave is taken simultaneously by two or more other closer family members).

The period of care leave benefits for the same family member in need of care may thus not exceed a total of 12 months, whereas in the case of family hospice leave these benefits may be claimed as long as hospice care is required.

The rate of care leave benefits is income-related and basically equal to the rate of unemployment benefits (55% of daily net income).

If workers take family hospice leave, they may under certain conditions (financial distress) claim supplements from the leave programme's compensation scheme.

Since in the case of part-time care leave/part-time family hospice leave both the working time and the income are reduced, the amount of care leave benefits due is prorated, i.e. calculation is based on the difference between the average gross pay (as used for calculating unemployment benefits) received before and the one received during part-time leave (special bonus payments not included).

Applications for care leave benefits are filed with the Federal Social and Disability Office (BSB).

10.5 24-HOUR CARE

The Home Care Act (Hausbetreuungsgesetz – HbeG) and an amendment to the Trade Act (Gewerbeordnung – GewO) constitute the legal basis under labour and trade law for legal (nursing) care services of up to 24 hours in private households either by employed carers or by self-employed carers.

For the purpose of supporting 24-hour care the Federal Ministry of Social Affairs has developed a support model, under which care services for people in need of (nursing) care can be supported with money from the assistance fund for people with disabilities (Unterstützungsfonds für Menschen mit Behinderungen).

Support may total up to EUR 1,100 in case of care relationships involving employed carers or up to EUR 550 in case of care relationships involving self-employed carers. The net monthly income of persons in need of care must not exceed EUR 2,500 to qualify for this kind of support, with long-term care benefits, special bonus payments, family allowance, childcare allowance and housing assistance not being taken into account. This income threshold is raised by EUR 400 for each dependant relative or by EUR 600 for each dependant relative with disabilities. Support is not subject to a means test on the assets or property of the cared-for.

Care may be provided under an employment relationship between carer and cared-for (or one of the latter's relatives), or under a contract of these parties with a non-profit provider, or by engaging a self-employed care provider. The cared-for must claim category 3 or up of long-term care benefits to qualify for support.

In order to ensure the required quality of care, care providers

- 1) must have an educational background equivalent to that of home helps, or
- 2) must have properly cared for the requesting party for six or more months, or
- 3) must have been given due authorisation for the provision of (nursing/medical) care.

As of 2009 one of the above three quality criteria must be met to qualify for support to 24-hour care.

First-stop shops for receiving information and filing applications are the Federal Social Office and its nine Laender offices as well as the Internet platform www.pflegedaheim.at.

10.6 SOCIAL SERVICES IN LONG-TERM CARE

Social services are offered by voluntary welfare associations, Laender and local communities. In 2012 roughly 48,000 full-time equivalents worked in social services. In particular, these are certified nurses, assistant nurses, home helps, skilled social care professionals and certified social care professionals specialised in working with the elderly and families, and in working with/assisting the disabled. About four fifths of these service providers are women.

MOBILE CARE SERVICES

Mobile care services include domestic care, home help, family help, meals on wheels, visitor or counselling services.

- » Use of mobile care services rose from 10.6 million to 16.9 million hours between 2000 and 2012.
- » As reported by the Laender, the number of individuals cared for by mobile services totalled roughly 139,000 in 2012.

DAYCARE SERVICES

Geriatric daycare centres or daycare facilities are gaining importance in Austria's nursing and care landscape.

INPATIENT SERVICES

In 2012, care was provided to some 71,900 individuals in residential and nursing homes for the elderly. There is a marked reduction of residential accommodation in these homes, while nursing accommodation is on the rise.

SOCIAL CARE PROFESSIONS

An agreement concluded in 2005 between the federal government and the Laender on social care professions greatly helped to improve the attractiveness of these professions. The main pillars of this agreement included the creation of a modular training system and of uniform training standards throughout Austria, harmonisation of job profiles and descriptions, enhanced transfer opportunities between occupational groups, uniform recognition of training certificates and social care professions, as well as better-quality service provided to clients.

CHAPTER 11

MINIMUM INCOME PROVISION

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11.1 OVERVIEW

96% of cash benefits under social protection systems are granted without any means test. Eligibility criteria for these benefits, and the benefit levels, are either based on social insurance principles or on the principle of unconditional entitlement in case of risk ('universal benefits'). These social protection systems prevent poverty for the majority of the population.

However, their provisions do not suffice for some groups of the population. This is why additional benefits, involving means tests against income and, in part, also against assets and property, are offered under social insurance schemes, other social welfare systems and special social assistance systems.

Under pension insurance the equalisation supplement is a case in point, so are unemployment assistance benefits and to a certain extent also standard unemployment benefits (in particular the supplements to these benefits, see Chapter 7). In special risk situations people may also be entitled to means-tested benefits from the Family Burdens Equalisation Fund (FLAF). Other means-tested social benefits include pupil and student grants and exemptions from paying charges and fees. Until

2010, Laender-based social assistance was used to offer support whenever a person's own income and property, the income and property of family members obliged to pay alimony, and income from other social protection systems did not suffice to ensure a certain minimum standard (principle of subsidiarity). The introduction of the means-tested minimum income scheme in September 2010 was another step in efforts to take forward the social assistance schemes of the Laender.

A total of EUR 2.8 billion was spent on means-tested cash benefits in 2012: including, inter alia, EUR 1 billion on equalisation supplements under social pension insurance, EUR 0.9 billion on unemployment insurance benefits (in particular unemployment assistance), EUR 0.6 billion on cash benefits under the means-tested minimum income scheme (former social assistance) and EUR 0.2 billion on pupil and student grants in terms of federal family benefits for social reasons.

Though monetary in nature, the roughly EUR 0.4 billion spent on housing and rent benefits are allocated to in-kind benefits designed to ensure a minimum means of subsistence.

11.2 STATUTORY PENSION INSURANCE: EQUALISATION SUPPLEMENT

In case of financial indigence, the lowest pensions under the statutory pension insurance system are topped up with an equalisation supplement to reach a threshold value (called 'equalisation supplement reference rate' – Ausgleichszulagenrichtsatz). If the total pension and other net income and creditable amounts (e.g. alimony payments) are below this threshold, an equalisation supplement amounting to the balance is due. Alongside the income of the pensioners in question, also spouses' or partners' incomes are taken into account. A number of benefits, such as long-term care or housing benefits, as well as property, are exempted from being credited towards equalisation supplements.

The equalisation supplement is a non-contributory special benefit listed in Annex IIa to Regulation (EEC) no. 1408/71 and will thus be granted only to persons having their habitual residence in Austria.

The monthly reference rate, to which lower pensions are raised, is EUR 857.73 for single persons and EUR 1,286.03 for couples or registered partners (14 times a year) for 2014. Moreover, a supplement of EUR 132.34 is granted for each child unless the child has a net income exceeding EUR 315.48 per month.

The equalisation supplement reference rate for singles corresponds to almost 60% of the median per capita net income.

The average monthly amount of equalisation supplement was EUR 296 in 2013. Approx. 229,400 persons (whereof 67% were women), i.e. 10% of all claimants of statutory pensions, received an equalisation supplement in December 2013.

11.3 UNEMPLOYMENT INSURANCE: UNEMPLOYMENT BENEFIT AND UNEMPLOYMENT ASSISTANCE

Roughly one third of unemployment benefit claimants and roughly three quarters of unemployment assistance claimants receive benefits below the equalisation supplement reference rate defined by statutory pension insurance for single persons. Unemployment insurance does not provide for minimum unemployment benefits and minimum unemployment assistance benefits, but includes elements designed to ensure a minimum means of subsistence.

When calculating unemployment benefits, the generally applicable replacement rate of 55% of the last net income from work is raised to 60% (i.e. a supplement is granted) whenever the amount of unemployment benefits falls below the individual reference rate for equalisation supplements. If the unemployed person has to support family members, unemployment benefits will be increased to 80% of the previous net income, with the equalisation supplement reference rate being the absolute limit.

Net expenditure on this supplement (exclusive of health insurance contribution) was roughly EUR 67.74 million in 2012.

Unemployment assistance is granted for an unlimited period of time to the longer-term unemployed. It follows upon exhaustion of unemployment benefits if claimants are in distress and meet all other eligibility criteria (ability and willingness to work). Since the introduction of the means-tested minimum income scheme in 2010 unemployment assistance benefits have been calculated not only on the basis of the unemployment benefits previously claimed but also with due regard to any applicable supplement. Income earned by spouses or partners will only be offset to a level that ensures maintenance of the minimum standard defined by the equalisation supplement reference rate for couples (2014: EUR 1,286.03) plus any supplements for children (see Chapter 7). Along with the introduction of the means-tested minimum income scheme, an increase of the net replacement rates and a more generous approach to offsetting spouses'/partners' incomes have strengthened the elements which ensure a minimum means of subsistence under the unemployment assistance scheme.

Net expenditure on this supplement (exclusive of health insurance contribution) to unemployment assistance was roughly EUR 74.8 million in 2012.

11.4 MEANS-TESTED MINIMUM INCOME SCHEME

The means-tested minimum income scheme (Bedarfsorientierte Mindestsicherung – BMS), which was introduced in 2010/2011, is a key policy to avoid poverty and another step in efforts to take forward the social assistance schemes of the Laender.

An agreement concluded under Article 15a of the Federal Constitutional Act (B-VG) between the federal government and the Laender sets out the key aspects of this minimum income scheme to be transposed into the relevant federal and Laender laws.

The BMS comprises benefits to ensure people's means of subsistence and housing needs, and to afford protection in case of sickness, pregnancy and childbirth. A flat-rate benefit (= minimum standard), it is designed to ensure cover for recurring expenses on food, clothing, personal hygiene, household effects, heating and electricity, as well as on personal needs to enable claimants to enjoy appropriate social and cultural participation.

KEY ASPECTS OF THE MEANS-TESTED MINIMUM INCOME SCHEME

- » **Uniform minimum standards:** The former reference rates for social assistance varied greatly from Land to Land. The means-tested minimum income scheme now ensures the same minimum standards for all those who meet the eligibility criteria and includes rules to prevent benefits from falling below a certain floor level. However, the Laender may grant additional or higher benefits.
- » **Incentives to take up gainful employment:** Persons claiming BMS for a longer period of time are assisted to achieve (re-) entry into the labour market. A special exemption limit for returners (WiedereinsteigerInnenfreibetrag) has been introduced for this purpose, which may also be claimed by those taking up work for the first time. This exemption limit means that any additional money earned is not fully set off against BMS benefits. As former beneficiaries are no longer obliged to repay benefits, the in-

centive to (re-)enter the job market is to become stronger.

- » **Higher benefits for single parents:** Whereas in most of the former social assistance laws single parents were considered to be heads of households (with reference rates below those of single persons), under the new BMS scheme they may now claim the same amounts as single persons. This is intended to mitigate the high poverty risk of this group.
- » **Limited realisation of assets:** The Laender also differed in their approach to which parts of a claimant's income and/or assets were to be ignored in the means test. The current BMS scheme provides basically uniform eligibility criteria. It defines the assets to be exempted from compulsory realisation as well as a fixed exemption limit.
- » **Improved provisions concerning recourse/repayment:** Recourse provisions, too, differed from Land to Land. Apparently, the obligation to repay benefits was a major disincentive to claim assistance. It made it more difficult for former assistance claimants to exit from the poverty spiral even after having (re-)entered the labour market. Therefore former assistance claimants need no longer repay benefits in case they earn money on their own. This also applies to parents of children of age and to such children and their parents (exception: Styria and Carinthia).
- » **Legal certainty:** Access to benefits under the means-tested minimum income scheme is ensured by procedural law that meets the special needs of applicants. Since the time limit for decision-making has been reduced to three months (maximum), much greater procedural efficiency is achieved in awarding such benefits. Moreover, applicants enjoy improved standards of legal certainty and legal protection:
 - » Negative first-instance decisions must be issued in written form.
 - » Both the possibility of waiving one's right of appeal and the possibility of appeals in benefit matters having a suspensive effect are excluded.
- » **E-card for everyone:** Unlimited access to medical services is ensured by including benefit claimants without health insurance cover in the statutory health insurance scheme. Hence the social stigma associated with the health insurance vouchers issued under the social assistance scheme is a thing of the past.

ELIGIBILITY CRITERIA FOR MEANS-TESTED MINIMUM INCOME BENEFITS

The means-tested minimum income scheme does not provide an unconditional basic income.

Claimants are only eligible for BMS if they are neither able to raise the resources for basic subsistence through own efforts³², nor through entitlements to social insurance or other priority benefits (principle of subsidiarity). With a few exceptions, people must first rely on their own income, assets and property before claiming BMS benefits.

This does not apply to the following assets and property:

- » items needed for performing paid work or meeting adequate intellectual and cultural needs
- » motor vehicles required due to job, disability or lack of appropriate infrastructure
- » adequate household effects
- » savings up to EUR 4,070 (2014).

Claimants must be able and willing to work. There are exceptions for persons who

- » have reached the statutory retirement age as defined by the General Social Insurance Act (ASVG), which is currently 60 years for women and 65 years for men
- » have care duties for children under the age of 3 and cannot take up jobs for lack of suitable care options
- » are the primary caregivers to relatives claiming long-term care benefits of category 3 and up
- » nurse dying family members or seriously ill children
- » or continue training begun prior to their 18th year of life (does not apply to tertiary education).

Entitlement to the benefit is linked to the right to permanent residence in Austria, the objective being to prevent social tourism. Relatives of Austrians (nuclear family), EEA nationals and persons with residence and work permits living in Austria for five or more years, as well as recognised refugees and persons granted subsidiary protection status are entitled to means-tested minimum income benefits.

AMOUNT OF BMS BENEFITS

The level of benefits granted under the means-tests minimum income scheme is based on the monthly equalisation supplement reference rate defined under social pension insurance minus contributions to statutory health insurance (5.1%).

32 work, use of own income, assets and property

In 2014, singles and single parents receive EUR 813.99 and couples/partners EUR 1,220.99 in BMS benefits paid 12 times a year. The Laender may continue to award special and/or additional benefits, e.g. heating allowances. The flat-rate minimum benefit level already includes some housing support. If adequate housing costs exceed 25% of the minimum benefit level of a shared household of benefit-dependent members, the Laender

may grant additional benefits to cover housing costs. For this purpose they may use funds available under the means-tested minimum income scheme or they may grant support in the form of housing benefits. It should be noted that the amounts of benefits presented here are to be seen as floor levels which may be exceeded by the Laender. Some of the Laender provide higher benefits for e.g. children.

Overview of minimum benefit levels for 2014 in relation to the rate for single persons

	percentage	fixed amount in EUR
single persons	100	813.99
single parents	100	813.99
(married) couples	150 (2x75)	1,220.99
every further adult in the household entitled to the benefit and also entitled to maintenance payments	50	407.00
persons living in shared accommodation with no reciprocal entitlement to alimony payments	75	610.49
1 st - 3 rd minor child	18	146.52
from 4 th minor child onwards	15	122.10

Source: Federal Ministry of Social Affairs; February 2014

NUMBER OF CLAIMANTS

In 2012 roughly 221,000 persons received benefits under the means-tested minimum income scheme (BMS).

LABOUR MARKET INTEGRATION UNDER BMS

A key component of the means-tested minimum income scheme is (re-)integration into the labour market to ward off social exclusion. This policy objective is supported by job-promoting and activating measures under the BMS scheme. In 2012 a total of 85,700 BMS claimants (whereof 35,500

were on BMS only) were assisted by the public employment service. This figure rose to 93,900 (whereof 39,200 were on BMS only) in 2013. Roughly 48,100 BMS claimants accepted offers of PES support in 2012 (e.g. integration subsidies, training programmes, enrolment in a job creation scheme). This figure jumped to 57,400 in 2013. Some 20,600 claimants of minimum-income benefits could be placed in jobs in 2012 (22,400 in 2013) whereof roughly 5,800 were claimants of BMS benefits (2013: 5,800) and 14,800 were claimants of BMS plus PES benefits (2013: 16,600).

11.5 SUPPLEMENTARY PENSIONS UNDER SOCIAL COMPENSATION LEGISLATION

Means-tested pension benefits under social compensation schemes (see Chapter 4) fulfil the function of minimum income provision: supplementary pension benefits under the Act on Cash Income Support for Victims of War (KOVG), maintenance pensions under the Victims Welfare Act (OpferFG), means-tested benefits under the Military Service Compensation Act (HVG), Act on Compensation for Vaccination-Induced Disabilities (ISG) and Act on Victims of Crime (VOG).

On 1 January 2014, about 5,200 persons received means-tested benefits under the Act on Cash Income Support for Victims of War, about 700 persons under the Victims Welfare Act, 42 persons under the Military Service Compensation Act, one person under the Act on Victims of Crime and four persons under the Act on Compensation for Vaccination-Induced Disabilities.

11.6 WAGE POLICIES UNDER COLLECTIVE AGREEMENTS

In Austria, minimum wages for private-sector employees are not determined by law. Rather, wage policy in Austria is part of the autonomous bipartite social dialogue between employers' and employees' representatives. They define minimum wages by concluding collective agreements at sectoral level (usually once a year). The normative power of collective agreements results in their provisions on pay and working conditions having a direct and

binding effect on individual employment relationships. Roughly 95% of employment relationships in the private sector are subject to collective agreements.

In a principle agreement the social partners resolved in collective bargaining rounds in 2008/2009 to increase any minimum wages of under EUR 1,000 (14 times per year) to at least EUR 1,000. This floor level has been fully met and, in most cases, exceeded since 2009.

CHAPTER 12

PROVISIONS UNDER LABOUR LAW

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12.1 COLLECTIVE AGREEMENTS

Supra- and intra-company social partnership plays a major role in designing pay structures and labour relations. Austria has a comparatively centralised structure of stakeholder groups, which conclude collective agreements on sectoral levels in most cases. Alongside wages and salaries, these agreements define essential working conditions (e.g. flexible working hours, periods of notice for terminating employment, wage supplements). This is how collective agreements achieve uniform pay standards and working conditions in the sectors concerned, thus exerting a strong influence on the conditions of competition.

Unlike in other countries, collective agreements in Austria apply to all workers in a sector no matter whether they are union members or not. Since only a part of Austria's employees is organised in trade unions, this external

dimension of collective agreements is a significant tool in countering wage pressure. The provisions contained in collective agreements have a direct bearing on individual employment contracts, i.e. they cannot be limited or abolished to the detriment of employees neither by individual contracts nor by company-level agreements. As a rule, however, this will not prejudice the right to adopt provisions which are more favourable to workers.

In addition to the social partners' statutes (where collective agreements are declared to be generally applicable), legislation provides for the option of defining minimum pay (minimum wage rates) by official ordinance for employment relationships which, for lack of any collective bargaining entity on the employer's side, are not subject to any collective agreement.

12.2 WORKS COUNCILS AND COMPANY-LEVEL AGREEMENTS

Inside companies, works councils are important bodies representing the interests of employees. According to law, every company having at least five employees at all times is liable to have a works council. Non-compliance, however, is not sanctioned. Members of a works council are independent from trade unions, but in fact more than 90% of them are also union members. Members of works councils enjoy special protection against dismissal and summary dismissal.

The most important instruments of workers' co-determination are company-level agreements, i.e. agreements between management and works council. The right to

conclude company-level agreements can only be exercised through the works council. Statutory provisions and collective agreements form the framework within which company-level agreements can be used for more detailed arrangements. As a matter of principle, company-level agreements apply directly to all workers of an undertaking. Depending on the contents of these agreements, there are different legal instruments to enforce their adoption.

In addition, works councils have a number of statutory rights to information, monitoring and consultation vis-à-vis management.

12.3 WORKING HOURS

STATUTORY NORMAL WORKING HOURS

According to legislation, normal working time is defined to be 8 hours per day and 40 hours per week. Normal working time defined by collective agreements may also be less. Weekly hours are below 40 in many sectors due to collective agreements.

FLEXIBLE ORGANISATION OF WORKING TIME UNDER COLLECTIVE AGREEMENTS

Derogations from normal working hours as set out in the Working Time Act (Arbeitszeitgesetz – AZG) may be adopted by the collective bargaining parties or by company-level agreements. The AZG includes far-reaching

options for more flexible working hours, but these are subject to appropriate provisions in collective agreements and thus to the consent of trade unions. Hence, issues of job security or attractive arrangements for time off in lieu of financial compensation can be negotiated, along with more flexible working hours, in the framework of collective agreements or company-level agreements (provided companies are authorised to do so by collective agreements). If, for lack of any collective bargaining entity on the employer's side, no such collective agreement can be concluded, company-level agreements will replace collective agreements.

ROOM FOR THE COLLECTIVE BARGAINING PARTNERS TO ENHANCE THE FLEXIBILITY OF WORKING TIME ORGANISATION

Collective agreements may define flexible models for averaging working hours under the AZG, with options to increase the number of normal working hours per day and the admissible number of normal working hours per week. However, average normal weekly working time must not be exceeded within a specific period of time (= reference period). As a rule, any hours over and above the average weekly working time within such a reference period will be treated as overtime work. In principle, the following rule applies: the longer the period of consecutive time in lieu granted, the greater the flexibility in working time organisation. Collective agreements may define reference periods of up to 52 weeks or – in combination with several weeks of time off (sabbatical) – even longer periods. Normal daily working time may be extended to up to ten hours within the related reference period. Normal weekly working time may be extended to up to 48 hours and, provided the reference periods is no more than eight weeks, even to up to 50 hours.

The collective bargaining parties may also decide – in conjunction with the introduction of a four-day working week or longer consecutive periods of time off – to extend normal working time to up to ten hours a day.

OVERTIME

Any hours over and above statutory normal working time are deemed to be overtime subject to a wage supplement of 50% or subject to time in lieu. Workers may be used for overtime work only if such work is permitted under statutory provisions, and if it does not conflict with interests deserving consideration.

Hours over and above any agreed shorter working time are deemed to be extra hours worked.

PART-TIME WORK

Whenever the agreed weekly working time is below the weekly hours defined by law or collective agreements, we speak of part-time work. Part-timers may not be placed at any disadvantage because of their part-time work vis-à-vis full-timers, unless objective reasons warrant such different treatment. Part-timers may be used for extra work only if such work is permitted under statutory

provisions, if there are times of greater demand, and if this does not conflict with interests deserving consideration. If working extra time, part-timers are entitled to a supplement of 25%.

MAXIMUM WORKING TIME UNDER LAW

As a rule, total working time (= normal working time + overtime) must not exceed ten hours per day and an average of 48 hours per week within the reference period defined by law or collective agreement, with working time of up to 50 hours being permitted in single weeks. Basically, employers are penalised for any hours over and above this upper limit unless derogations are permitted by law. Derogations are admissible if they are required in situations of special labour demand to prevent any disproportionate economic drawback. For this purpose company-level agreements may permit overtime of up to twelve hours a day and 60 hours a week within no more than 24 weeks of any given calendar year, if other measures are unreasonable. Employers will only be liable to penalties if they exceed this limit.

Weekly working time in % of employees, 3rd quarter 2013

	total	men	women
up to 24 hours	15	5	25
25-35 hours	12	4	21
36-40 hours	53	62	43
more than 40 hours	20	29	11

Source: Federal Ministry of Social Affairs based on Mikrozensus (Statistics Austria); Labour Force Concept; February 2014

ACTUAL HOURS WORKED IN AUSTRIA

In 2012 (third quarter), more than half of employees (53%) worked between 36 and 40 hours a week. One fifth usually works more than 40 hours, with a declining tendency in recent years. Men work overtime more often than women, while many more women than men work only up to 35 hours per week. The ratio of women in part-time jobs (below 36 weekly hours) was 45% in 2013 (third quarter) as opposed to only 26% of the entire population. Both ratios remained relatively stable in 2013.

12.4 ANNUAL HOLIDAY ENTITLEMENT

Austria has minimum periods of annual leave defined by the Annual Leave Act (Urlaubsgesetz – UrlG). All employees are entitled to five weeks (25 working days for those working five days a week or 30 working days for those working six days a week) of paid leave per working year. If employees are with the same employer for more than 25 years, they are entitled under law to longer annual holidays, i.e. six weeks (30 working days for those working five days a week or 36 working days for those working six days a week). The Annual Leave Act provides that previous periods of employment with another employer as well as certain periods of education and study (up to a defined

ceiling) are credited towards the period of employment required for increasing annual leave entitlements.

Employees performing heavy night work are entitled to additional holidays of up to six working days per year depending on job tenure.

In order to protect workers, such leave must be taken during an ongoing employment relationship and employers may not pay financial compensation in lieu of leave.

For more information on the Annual Leave Act (UrlG) refer to sozialministerium.at › Arbeit › Arbeitsrecht › Urlaub/Pflegefreistellung (in German only)

12.5 FAMILY-RELATED PROVISIONS UNDER LABOUR LAW

MATERNITY PROTECTION

Provisions affording protection to expectant mothers are designed to prevent danger to life and health of pregnant employees and their unborn children. They apply to all workers and include bans on activities physically harmful to expectant mothers and unborn children, as well as bans on night shifts, on work on Sundays and public holidays, and on overtime work for expectant and nursing mothers. Eight weeks before and eight weeks after the birth of a child (twelve weeks for premature births, multiple births or caesarean sections), women are subject to an absolute ban on working..

LEAVE UP TO THE 2ND BIRTHDAY OF THE CHILD

Under the Maternity Protection Act (Mutterschutzgesetz – MSchG) and the Paternity Leave Act (Väter-Karenzgesetz – VKG), employees are entitled to unpaid leave to care for a baby or infant until he/she turns two; mother and father may twice alternate in taking such leave. (During this time parents receive childcare allowance. The duration of this allowance is independent of the duration of leave taken; rather, its amount and duration depend on the chosen option; see Chapter 9.)

In order to qualify for this leave, the employee and the child must live in the same household.

PART-TIME WORK FOR PARENTS

In companies with more than 20 employees parents are entitled to part-time work until the child turns seven at the latest or starts school after that date, provided that employment has lasted for three or more years. The beginning and duration of part-time work, as well as

the extent and distribution of working hours, are to be agreed with the employer. Unless there is an agreement, employers may bring the case before the Labour and Social Court. The court will then decide with due regard to the interests of both parties. If there is no entitlement to parental part-time work, employer and employee may agree on part-time work up until the child's 4th birthday at the latest.

PROTECTION AGAINST DISMISSAL AND SUMMARY DISMISSAL

Employment contracts of pregnant women may only be terminated for certain reasons, e.g. because the employer closes or permanently downsizes the undertaking; as a rule, this requires the approval of the Labour and Social Court. A woman working under an open-ended employment relationship must not be given notice of termination from the beginning of pregnancy to the end of four months after childbirth, or four weeks after the end of maternity leave or part-time work under the Maternity Protection Act (until four weeks after the child's 4th birthday at the latest). In case of part-time work beyond the child's 4th birthday, dismissal on grounds of part-time work taken (a so-called 'motivated' dismissal – Motivkündigung) is inadmissible.

Dismissal protection for fathers begins with their declaration to take parental leave or parental part-time work, but no earlier than four months before entering such leave or part-time work and definitely not before the birth of the child, and ends four weeks after exhaustion of parental leave or part-time work, but no later than four weeks after the child's 4th birthday. If part-time work con-

tinues beyond the child's 4th birthday, fathers will also be subject to protection from motivated dismissal.

FAMILY HOSPICE LEAVE – PART-TIME FAMILY HOSPICE LEAVE

Family hospice leave/part-time family hospice leave (Familienhospizkarenz/Familienhospizteilzeit) enables workers to nurse and assist dying relatives or seriously ill children. Persons caring for dying relatives or seriously ill children are subject to social health and pension insurance during this period. In special cases, the Family Burdens Equalisation Fund will provide financial support (family hospice leave – cases of hardship, see section 9.4). Contributions to social insurance are shared according to the level of income: they are paid by unemployment insurance (for health insurance cover) and the federal government (for pension insurance cover) in case of reduced earnings up to the marginal earnings threshold (2014: EUR 395.31), by the employer and the federal government (for pension insurance cover, i.e. increase of the basic contribution paid by the employer) for earnings between EUR 395.31 and EUR 1,649.84, and by the employer (social insurance provisions of family hospice leave are not applicable) for earnings of 1,649.84 or higher.

CARE LEAVE – PART-TIME CARE LEAVE

As of 1 January 2014 workers may agree with their employers on care leave or part-time care leave arrangements (Pflegekarenz/Pflegeteilzeit). Care leave or part-

time care leave may be agreed in writing for the purpose of nursing and/or caring for close family members who, at the time when the worker takes such leave, have received an official decision granting them long-term care benefits of category 3 or higher under the Federal Long-Term Care Benefit Act (Bundespflegegeldgesetz – BPGG). Such an agreement may be drawn up if the employment relationship has been in effect for an uninterrupted period of at least three months. Care leave and part-time care leave may last from one to three months. Under part-time care leave arrangements, normal weekly working time must not drop below ten hours. Basically, care leave for one and the same person in need of nursing/care may be agreed only once. If, however, this person's care category is raised employer and employee may agree on one single additional period of care leave or part-time care leave.

While on care leave or part-time care leave workers are entitled to claim care leave benefits (Pflegekarenzgeld). To this end the employee in question must have been under full social insurance cover (ASVG) for an uninterrupted period of at least three months directly before taking such leave. Moreover, social insurance cover continues during leave (non-contributory health and pension insurance).

For more information on care leave and part-time care leave refer to sozialministerium.at > Arbeit > Arbeitsrecht > Pflegekarenz und Pflegeteilzeit (in German only)

12.6 EDUCATIONAL LEAVE

Educational leave enables employees to take leave of two to twelve months for education/training or continuing training. During the economic crisis of 2008, (initially fixed-term) measures were introduced to facilitate access to educational leave, which were adopted on a permanent basis on 1 January 2012. This means that the minimum period of educational leave now continues to be two months (instead of the formerly applicable three months) and the minimum period of employment for eligibility to educational leave continues to be six months (instead of the previous twelve months). Employees cannot enforce educational leave vis-à-vis employers, but they are under motivated dismissal protection while being on such leave. During educational leave, employees may claim cash benefits from unemployment insurance equivalent to fictitious unemployment benefits (further training allowance) if they provide proof of participation

in (continuing) education or training programmes of 16 or 20 weekly hours. If a worker takes leave for reasons other than (continuing) training or education, eligibility for benefits from the unemployment insurance scheme will be conditional on the employer hiring a substitute for the period of leave.

As of 1 July 2013 part-time educational leave (Bildungsteilzeit) may be agreed to enable workers to enter continued training programmes while working part-time under an ongoing employment relationship. The eligibility criteria are the same as for educational leave (Bildungskarenz): in order to be able to agree on part-time educational leave with employers, workers must have been in employment for an uninterrupted period of six months. The minimum period of part-time educational leave is four months and the maximum period two years. An essential criterion for agreeing on part-time educational

leave is compliance with the admissible range of hours reduced: working time must be reduced by at least one quarter, while the maximum reduction may not exceed half of the working hours normally worked by the claimant. Weekly working time during part-time educational leave must not drop below ten hours. While on part-time educational leave, workers are entitled to part-time training allowance provided they have been in UI-covered employment with consistent hours worked for six or more months. Consistency of hours worked is required as otherwise it would be impossible to assess the extent

of working time reduction and thus the level of part-time training allowance due. Moreover, the worker in question must provide evidence of participation in a continued training programme of at least ten weekly hours largely covered by the duration of part-time leave.

For more information on educational leave and part-time educational leave refer to sozialministerium.at
 › Arbeit › Arbeitsrecht › Bildungskarenz und Bildungsteilzeit (in German only)

12.7 UNEMPLOYMENT-RELATED PROVISIONS UNDER LABOUR LAW

DISMISSAL PROTECTION

In principle, employers may terminate an employment contract at any time without stating reasons, provided that the periods and dates of notice defined by law, collective agreement or single agreements are complied with (dismissal). In case of good cause, e.g. unjustified absence from work, the employment relationship may be terminated without notice (summary dismissal). Statutory periods of notice to be observed by employers are longer for white-collar workers than they are for blue-collar workers.

Employers are obliged to notify the works council of any intended termination of employment. The works council may issue a statement on such dismissal within one week and request consultation with the employer. If the works council has expressly objected to the intended dismissal, it can be contested by the works council or the employee in cases where dismissal is considered to be socially unjustified (unfair). Dismissals for legally inadmissible motives (e.g. trade union activity of the employee in question) or discriminatory dismissals can be contested by the affected employees themselves, even

if the works council has agreed to the intended employment termination.

If five workers are given notice of termination in a business employing 20 or more workers, management and works council may agree on measures to cushion the social impact of layoffs for operational reasons and adopt a redundancy programme (Sozialplan). If the employer is unwilling to conclude such a company-level agreement, the works council may enforce its adoption via a quasi-tribunal involving the social partners.

Certain groups of employees enjoy special dismissal protection, including members of the works council, pregnant women, mothers after childbirth, parents while on parental leave or while working part-time after childbirth (see Chapter 9), people with disabilities as well as workers performing their national military or alternative civilian service. In any case official approval is required.

Any of the following intended dismissals must be reported to the public employment service no later than 30 days prior to the first official notice of termination:

- » layoffs of at least five employees in companies with more than 20 and fewer than 100 workers

Periods of notice for contracts terminated by the employer

job tenure	white-collar workers	blue-collar workers as defined by the Trade Act
	period	
under two years	six weeks	Statutory period: 14 days. May be extended or reduced by collective agreement or individual employment contract.
after two years	two months	
after five years	three months	
after 15 years	four months	
after 25 years	five months	

Federal Ministry of Social Affairs; February 2014

- » layoffs of at least 5% of employees in companies with 100 to 600 workers
- » layoffs of at least 30 employees in companies with more than 600 workers
- » layoffs of at least five workers aged 50 and over.

The public employment service must start deliberations immediately and seek to find employment for the workers concerned in the same or in another business.

12.8 ENTITLEMENTS UPON TERMINATION OF EMPLOYMENT

When employment is terminated, workers have various entitlements vis-à-vis their employers under labour law: this relates primarily to entitlements to severance pay under the old scheme, compensation for leave not taken, prorated special bonus payments, and dismissal compensation.

‘OLD’ SEVERANCE PAY SCHEME

Employees (not including civil servants) whose employment relationship started prior to 2003, and who did not migrate to the employee income provision scheme in place since 2033, are entitled to severance pay upon termination of employment. To be eligible, they must have worked for the company for a certain minimum period of time and be given notice of termination by the employer, or they must be workers retiring after job tenures of ten or more years. The amount of severance pay will depend on the duration of the employment relationship, ranging from two to twelve monthly remunerations. Monthly remuneration is defined to be one twelfth of the annual pay including special bonus payments, regular overtime pay, supplements, etc.

Severance pay levels (‘old’ scheme)

job tenure	severance pay level
after three working years	two monthly remunerations
after five working years	three monthly remunerations
after ten working years	four monthly remunerations
after 15 working years	six monthly remunerations
after 20 working years	nine monthly remunerations
after 25 working years	twelve monthly remunerations

Source: Federal Ministry of Social Affairs; February 2014

EMPLOYEE INCOME PROVISION SCHEME

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 (second pillar of the pension system) was to be strengthened,

the severance pay system was replaced in 2002 by the new employee income provision scheme, later called ‘income provision scheme for employees and self-employed’ (betriebliche Mitarbeiter- und Selbstständigenvorsorge) or ‘new’ severance pay scheme (Abfertigung Neu). Employees working under an employment relationship begun prior to 2003 may choose between the old severance pay scheme and the new employee income provision scheme. Migration is subject to an agreement with the employer. As from 2003 employers have to pay 1.53% of the wages of all their newly employed workers into one of the existing employee income provision funds (BV-Kassen). The funds have to invest the money as set forth by legal provisions. Since 1 January 2008 also quasi-freelancers (freie Dienstnehmer/innen) are covered by the employee income provision scheme if their employment relationship is subject to compulsory insurance.

After the end of employment – and after three contributory years at the earliest – workers will be entitled to pay-out of the interest-bearing amounts unless the employment relationship was terminated by voluntary quits with notice of the workers concerned, by justified summary (instant) dismissals or by quits without notice of the employees concerned. Unlike in the old system, contributions paid into the new scheme are not forfeited in such cases. Rather, they may be claimed when the subsequent employment relationship is terminated provided that eligibility criteria are met (e.g. employment terminated by employer with notice). Upon employment termination the amount accrued may be left in the fund and be withdrawn later, e.g. upon retirement. The money may also be transferred to a private supplementary pension insurance or a pension fund. Investment income is exempt from withholding tax on such income. Like severance pay, the amount paid out is subject to a tax rate of 6%. No tax is due if the money is paid into a pension scheme.

FINANCIAL COMPENSATION FOR LEAVE NOT TAKEN

When an employment relationship is terminated, employees are entitled to compensation for leave not taken. As a rule, unused leave is compensated for in cash on a

prorated basis. Financial compensation for unused leave results in any unemployment benefit entitlements being suspended for the period of leave for which compensation is paid.

PRORATED SPECIAL BONUS PAYMENTS

If collective agreements or employment contracts provide for the payment of 13th and 14th monthly salaries (special bonus payments), workers usually are entitled to the prorated amount which corresponds to the time worked since the previous special bonuses were paid.

Almost all employees are entitled to these special bonus payments.

DISMISSAL COMPENSATION

Under certain conditions (e.g. when employers fail to comply with the defined dates and periods of notice), employers must pay dismissal compensation (Kündigungsschädigung) for all entitlements that would have accrued until the fictitious date of employment termination (e.g. if employer had complied with due dates and periods of notice).

12.9 ENTITLEMENTS UNDER LABOUR LAW IN CASE OF SICKNESS

If workers are unable to work due to illness or accident, they are entitled to the continued payment of wages by their employers for a certain period of time. This period depends on the employees’ job tenure within companies. The longer the period of employment, the longer the period of continued payment of wages. Once this period is exhausted, employees are entitled to half their pay for another four weeks. The balance of 50% is paid by the statutory health insurance scheme in the form of sickness benefits (see Chapter 8).

If workers are unable to work due to an occupational accident or occupational disease, they will be entitled to continued payment of full wages for up to eight weeks. Entitlement is extended to ten weeks from the 16th year of job tenure and maintained even if workers already continued receiving pay while on sick leave in the same year.

Continued payment of full remuneration according to job tenure

job tenure	continued payment
up to five years	six weeks
from six to 15 years	eight weeks
from 16 to 25 years	ten weeks
from 26 years onwards	twelve weeks

Source: Federal Ministry of Social Affairs; February 2014

CARE FOR SICK FAMILY MEMBERS

Employees are legally entitled to paid leave from work if they have to care for sick family members living in the same household³³. Employees are entitled to a total of one week of paid care leave per year. If a child under twelve years of age, who lives in the same household, falls ill, the worker concerned is entitled to a second week of care leave per year. If entitlement to care leave is exhausted, an employee may take leave to care for a child without requiring the consent of the employer. Such a unilateral decision to take leave does not constitute any ground for instant dismissal.

12.10 LABOUR-LAW PROVISIONS CONCERNING PEOPLE WITH DISABILITIES

In order to achieve the objective of sustainable labour market inclusion of people with disabilities, the Disability Employment Act (Behinderteneinstellungsgesetz – BeinstG) rests on three pillars: first, the act includes provisions on the duty of employers to hire eligible disabled persons; second, the employment relationships of people with disabilities are subject to special protection; and third, the act also provides extensive financial sup-

port for people with disabilities and in particular for their employers.

The Disability Employment Act uses the term ‘eligible disabled person’ (begünstigter Behinderter). People with disabilities may join this group upon request, provided they are EU or EEA nationals, their degree of disability is 50% or more and they are basically available to the labour market. Recognised refugees and third-party nationals,

33 spouses, registered or cohabiting partners, natural children, adoptive and foster children, parents or grandparents...

too, may join this group provided they are equivalent to Austrian nationals in terms of dismissal rules and are entitled to stay and take up jobs in Austria. A medical report determines the degree of disability based on abstract criteria related to the entire labour market.

Since workers with disabilities are more at risk of losing their jobs and may find it more difficult to land another job due to reduced mobility, eligible disabled persons (i.e. those registered as such) enjoy greater employment protection. The employment relationship of an eligible disabled person may only be terminated with due legal effect upon approval of such termination by the disability committee/Federal Administrative Court (Bundesverwaltungsgericht) unless, in exceptional cases, approval to any dismissal already decided is given retroactively. In proceedings for approval all the relevant circumstances and the balance of interests will be considered on a case-by-case basis to determine whether the disabled person can reasonably be expected to accept job loss or whether the employer can reasonably be expected to continue employment of the disabled worker.

In force since 1 January 2011, an amendment to the Disability Employment Act eases special dismissal protection of new employment relationships of workers who are registered as eligible disabled persons: special dismissal protection applies after a job tenure of four or more years, while previously it applied to job tenures of only six or more months. There are exceptions to this rule, e.g. in case of accidents at work. The provisions to ease special dismissal protection were adopted in agreement with the social partners and disability associations.

All employers in the private sector and in the public service in Austria are obliged to hire one disabled person per 25 employees. Specially disadvantaged groups of people with disabilities (e.g. the blind, severely disabled older people, wheelchair-bound persons) are counted twice when compliance with this requirement is checked. If an employer fails to meet this employment requirement either in full or in part, it must pay compensation, i.e. the so-called 'compensatory duty' (Ausgleichstaxe). This compensatory duty is intended to make up for the disadvantage other employers might have when employing people with disabilities (occasionally more absences from work and lower productivity). The rate of this compensatory duty is adjusted every year by an official ordinance issued by the Federal Minister of Labour, Social Affairs and Consumer Protection. The figures for 2014 are: EUR 244 per month and vacant disability slot for undertakings with 25-99 employees, EUR 342 per month and vacant disability slot for undertakings with 100 more employees and EUR 364 per month and vacant disability

slot for companies with 400 and more employees. The money is paid into a special compensatory fund (Ausgleichstaxfonds), which is managed by the Federal Ministry of Labour, Social Affairs and Consumer Protection, but is an independent legal entity. The money in the fund is earmarked and used primarily for benefits awarded directly to people with disabilities and to employers hiring people with disabilities (mostly individual support). Compensatory duties totalling EUR 137 million were imposed for 2012. As at 1 January 2013 roughly 95,000 persons were registered as eligible people with disabilities; the number of disability job slots theoretically available from all employers subject to the obligation to hire disabled persons was 96,000 in 2012, whereof more than 59,000 were filled with eligible disabled (=approx. 3% of employees). About 37,000 disability slots remained vacant. The statutory duty to hire people with disabilities was thus met at 61%. In 2012 only 21.5% of 18,594 employers subject to hiring obligations actually fulfilled this obligation, i.e. more than three quarters failed to do so. In spite of statutory hiring obligations, more than one third of all eligible disabled throughout Austria were not economically active in 2012.

A more recent policy approach to people with disabilities is anti-discrimination, which is reflected in Directive 2000/78/EC. Adopted in 2005, the Disability Equality Package (Behindertengleichstellungspaket) implements the requirement that enforcement of individual entitlements to non-discrimination on grounds of disability is available in the world of work and beyond. In addition to existing national legislation and incentives, this package introduces, inter alia, civil-law entitlements of individuals vis-à-vis their employers.

In analogy to the transposition of the directive into national law (see section 12.11), statutory protection against discrimination of people with disabilities in employment and occupation was adopted in 2006. Transposition of the directive's disability aspects was separated from the transposition of anti-discrimination rules for other groups at risk of discrimination because, unlike other groups, people with disabilities are not only discriminated against by acts or omissions. Rather, the barriers in their environment frequently prevent them from participating in the life of society or make this participation more difficult (see section 12.12).

As opposed to the requirement of refraining from discrimination against other specially protected groups, any required removal of barriers comes at a price. This is why the Disability Employment Act provides for a reasonableness test, under which a barrier is discriminatory in nature if its removal is reasonable.

Another feature, which distinguishes this law from equal treatment law, is the introduction of conciliation proceedings before the Federal Social Office, which must be used before any claims for damages are asserted in

court. The conciliation proceedings aim at an amicable settlement of any dispute. Within these proceedings external mediation is offered free of charge as an alternative means of dispute resolution (see section 12.12).

12.11 EQUAL TREATMENT

The Equal Treatment Act (Gleichbehandlungsgesetz – GIBG) includes a comprehensive ban on discrimination in employment on grounds of gender. This ban extends to forms of indirect discrimination, such as discrimination of part-time versus full-time workers under labour law.

An ombudswoman for equality issues is the central point of contact for women who work in the private sector and face disadvantages in their job because of their gender. In case of violations of the Equal Treatment Act, a request for review can be filed with the Equal Treatment Commission (Gleichbehandlungskommission). If the infringing employer is unwilling to remedy the discriminatory situation identified by the Equal Treatment Commission, the case may be referred to the Labour and Social Court. Claims resulting from discrimination can be asserted in court irrespective of whether or not proceedings were instituted before the Equal Treatment Commission.

Unlike the private sector, the public sector is subject to both equal treatment and advancement of women requirements. The federal state level, in terms of employer, is obliged to actively promote equal opportunities for women. Women shall be hired or advanced in the federal public service in areas where their percentage share is below a defined level. Originally fixed at 40%, this ratio was raised to 45% in changes to public service regulations of 1 January 2010.

Austrian equal treatment rules were revised in 2004, primarily to transpose the two anti-discrimination directives of the EU into national law³⁴. 2008 saw the transposition of the Council Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services.³⁵

The 2011 amendment to the Equal Treatment Act includes, inter alia, remuneration reporting requirements

for companies of a certain size³⁶ to achieve greater transparency in matters of wages and salaries. Another change involves the obligation to indicate remuneration in job advertisements. Any infringement of this obligation carries a fine.

The 2013 revision of the Equal Treatment Act includes clarification concerning the level of protection afforded to the self-employed in transposition of the Council Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services. In addition, the rules on compulsory indication of remuneration in job advertisements have been improved.

Legislation bans direct or indirect discrimination based on sex, ethnic origin, religion or belief, age or sexual orientation in the context of:

- » entering employment relationships
- » determining remuneration
- » granting fringe benefits which are not part of the remuneration
- » initial and continuing training and retraining
- » career advancement, especially promotions
- » other working conditions and
- » terminating employment relationships

as well as in other areas of the labour market, including

- » vocational guidance, vocational training, continuing training and retraining outside employment
- » participation in employees' or employers' organisations and
- » establishment, setting up or enlargement of a company as well as take-up or expansion of any other kind of self-employed activity.

34 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 based on religion or belief, disability, age or sexual orientation.

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

36 Gradual introduction: in 2011 for companies with more than 1,000 employees; in 2012 for companies with more than 500 employees; in 2013 for companies with more than 250 employees; and in 2014 for companies with more than 150 employees

Direct and indirect discrimination based on ethnic origin is banned in areas outside of the labour market, i.e.

- » social protection including social security and health services
- » social benefits
- » education and
- » access to and supply of goods and services available to the public, including housing.

Finally, direct or indirect discrimination based on sex is prohibited in the access to and supply of goods and services. The 2011 amendment to the Equal Treatment Act introduced protection against discrimination through association, i.e. protection has been extended to include persons close to a person protected from discrimination. The Equal Treatment Act sets out the following sanctions:

- » compensation of pecuniary loss, i.e. direct loss and lost profit or remedial action to create non-discriminatory situation

- » and – in both cases – compensation of non-pecuniary loss suffered due to personal discrimination.

In case of discriminatory termination and/or discriminatory non-renewal of fixed-term employment relationships, the worker in question may contest termination and/or request identification of an ongoing employment relationship. Another option for this worker would be to accept termination and/or non-renewal and claim compensation before court.

In addition to prohibition of sexual harassment, gender-related harassment and harassment based on one of the above forms of discrimination are deemed to constitute discrimination.

The mandate of the Equal Treatment Commission and the Equal Treatment Ombudsperson covers all forms of discrimination listed above.

12.12 EQUALITY OF PEOPLE WITH DISABILITIES (UNDER LABOUR LAW AND IN OTHER AREAS)

On 1 January 2006, the Disability Equality Package (Behindertengleichstellungspaket) entered into force (Federal Law Gazette I no. 82/2005). It aims to eliminate or prevent discrimination in important areas of life and enable people with disabilities to enjoy equal participation in the life of society.

In addition to the provisions under European law concerning the equality of people with disabilities in employment and occupation, the Federal Disability Equality Act (Bundes-Behindertengleichstellungsgesetz – BGStG) stipulates the protection against discrimination in ‘daily life’ for the first time.

Moreover, protection against discrimination applies not only to people with disabilities but also to individuals having a close relationship to people with disabilities. With the 2011 amendment to the BGStG, protection against discrimination has been extended to include not only close relatives, who may be subject to discrimination because of the disability of a family member, but also other individuals close to the disabled, e.g. teachers, personal assistants, etc.

The BGStG comprises a ban on discrimination of people with disabilities in the federal administration and in access to goods and services provided these goods and services are available to the public.

The scope of this ban also covers direct discrimination, indirect discrimination (e.g. through barriers), harass-

ment and instructions to discriminate. Assessment of whether a barrier-induced disadvantage constitutes discrimination has to focus on the question of whether the costs involved in removing such a barrier impose a disproportionate burden. If the measures required for removal may qualify for public financial support, this aspect must be considered in the assessment of reasonableness.

The core element of discrimination protection is the option of claiming compensation for pecuniary or non-pecuniary loss suffered. However, the pursuit of such a claim before the courts must be preceded by conciliation proceedings before the Federal Social Office; legal action without any prior attempt at conciliation is inadmissible. 1,450 such conciliation proceedings took place between 1 January 2006 and 31 October 2013, whereof 1,404 (97%) were finished by this cut-off date.

Slightly more than half of all requests (756 cases) concerned the Disability Equality Act (BGStG) and 694 the Disability Employment Act (BEinstG). In 662 (47%) of all finished cases an agreement could be reached, while in 576 (41%) of all finished cases no such agreement could be reached. Requests for conciliation were withdrawn in 166 cases (12.6%), most of them due to prior settlement. 46 proceedings (3%) were still pending on the cut-off date. External mediators were consulted in 25 cases (2%).

Since 2006 the percentage share of cases concerning the Disability Equality Act has been on the rise, between 2006 and 2011 from 32% to 62%, whereas the percentage share of cases concerning the Disability Employment Act has gone down proportionately. The total number of requests has increased from 130 requests in 2006 (year when this option was introduced) to 248 requests in 2012.

Transitional arrangements ensure that the scope of legislation is gradually widened to include structural barriers and barriers in public transport.

The Disability Equality Package also provides for the establishment of a disability ombudsperson. This ombudsperson is not bound by any instructions, is charged with counselling and supporting people with disabilities in cases of discrimination, and is a member of the Federal Disability Advisory Board (Bundesbehindertenbeirat).

With the adoption of the Disability Equality Package, the Austrian sign language has become a constitutionally recognised language.

(For equality in employment and occupation see section 12.10 on labour-law provisions.)

ABBREVIATIONS

AK	Chamber of Labour (Arbeiterkammer)	GKK	regional health insurance funds in the Laender (Gebietskrankenkasse)
ALG	Unemployment Benefit (Arbeitslosengeld)	GIBG	Equal Treatment Act (Gleichbehandlungsgesetz)
AIVG	Unemployment Insurance Act (Arbeitslosenversicherungsgesetz)	HBeG	Home Care Act (Hausbetreuungsgesetz)
APG	General Pension Insurance Act (Allgemeines Pensionsversicherungsgesetz)	HVG	Military Service Compensation Act (Heeresversorgungsgesetz)
ASVG	General Social Insurance Act (Allgemeines Sozialversicherungsgesetz)	ISG	Act on Compensation for Vaccination-Induced Disabilities (Impfschadengesetz)
AUVA	General work accident insurance institution (Allgemeine Unfallversicherungsanstalt)	IV	Federation of Austrian Industry (Industriellenvereinigung)
AZG	Working Time Act (Arbeitszeitgesetz)	KBG	Childcare Allowance (Kinderbetreuungsgeld)
BEinstG	Disability Employment Act (Behinderteneinstellungsgesetz)	KBGG	Childcare Allowance Act (Kinderbetreuungsgeldgesetz)
BGBI	Federal Law Gazette (Bundesgesetzblatt)	KGEG	Act on Compensation to Prisoners of War (Kriegsgefangenenentschädigungsgesetz)
BGStG	Federal Disability Equality Act (Bundes-Behindertengleichstellungsgesetz)	KOVG	Act on Cash Income Support for Victims of War (Kriegsopferversorgungsgesetz)
BKV	Occupational group insurance schemes (Betriebliche Kollektivversicherung)	LK	Chamber of Agriculture (Landwirtschaftskammer)
BMS	means-tested minimum income scheme (bedarfsorientierte Mindestsicherung)	NGO	Non-governmental organisation
BPG	Occupational Pension Act (Betriebspensionsgesetz)	ÖGB	Austrian Trade Union Federation (Österreichischer Gewerkschaftsbund)
BPGG	Federal Long-Term Care Benefit Act (Bundespflegegeldgesetz)	OpferFG	Victims Welfare Act (Opferfürsorgegesetz)
BUAK	construction workers' paid leave and severance pay fund (Bauarbeiter-Urlaubs- und Abfertigungskasse)	PES	Public employment service
BVA	Insurance institution for public-service employees (Versicherungsanstalt öffentlich Bediensteter)	PVA	Pension insurance institution (Pensionsversicherungsanstalt)
B-VG	Federal Constitution Act (Bundes-Verfassungsgesetz)	SHI	Statutory health insurance
BV-Kassen	Employee income provision funds (Betriebliche Vorsorgekassen)	SVAGW	Social insurance institution for the self-employed in trade and business (Sozialversicherungsanstalt der gewerblichen Wirtschaft)
ECTS	European Credit Transfer and Accumulation System	SVB	Social insurance institution for farmers (Sozialversicherungsanstalt der Bauern)
ESSPROS	European System of integrated Social Protection Statistics	UI	Unemployment insurance
EU	European Union	UrlG	Annual Leave Act (Urlaubsgesetz)
EUROSTAT	Statistical Office of the European Union	VAEB	Social insurance institution for railway and mining workers (Versicherungsanstalt für Eisenbahnen und Bergbau)
EU-SILC	European Community Statistics on Income and Living Conditions	WIFO	Austrian Institute of Economic Research (Österreichisches Institut für Wirtschaftsforschung)
BMFJ	Federal Ministry of Families and Youth	WKO	Economic Chamber (Wirtschaftskammer Österreich)
FLAF	Family Burdens Equalisation Fund (Familienlastenausgleichsfonds)		
GDP	Gross domestic product		
GewO	Trade Act (Gewerbeordnung)		

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