

# SUPPLEMENTARY REPORT ON THE 5TH AND 6TH REPORT OF THE REPUBLIC OF AUSTRIA TO THE UNITED NATIONS PURSUANT

TO ARTICLE 44 PARAGRAPH 1B  
OF THE CONVENTION ON THE  
RIGHTS OF THE CHILD



National Coalition for the Implementation of  
the UN-Convention on the Rights of the Child in Austria

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# Introduction

## How are children and young people in Austria doing?

*Basically very good if you compare how children and young people in other countries of the world are doing. Here in Austria, all children are allowed to go to school. It is forbidden to hurt children, to beat them, to insult them or to imprison them. No child must go to work to ensure that the family has anything to eat.*

*But! But unfortunately there are far too many children in Austria who nevertheless experience violence, far too many children who have to suffer a cold home in winter, far too many children who don't get healthy food and the right medicine and therapy in time when they are ill, far too many children who don't get support to go to the school of their choice or to train in the profession of their choice later on, far too many children who can't go on holiday or to the cinema with their families or on a project or sports week at school.*

*And in this group of children we unfortunately find most of the children and young people who have fled to us in Austria from a country at war. So we can say that refugee children are not as well off as Austrian children, although we live in the same country and they have the same rights.*

In this simple language, the National Coalition Austria has declared the status quo of the implementation of the UN Convention on the Rights of the Child in Austria on International Children's Rights Day in recent years. So that children and young people can easily understand it!

## National Coalition Austria

The present Supplementary Report goes into the depth of these problem areas and is the result of a joint working process of the 44 member organisations of the National Coalition Austria, the independent network for the promotion of the implementation of the UN Convention on the Rights of the Child in Austria. The network was founded more than 20 years ago in December 1997 in order to then contribute, for the first time, to a sound monitoring with its Supplementary Report to the UN Committee on the Rights of the Child.

## Process of Report Compilation

The individual chapters were discussed and drafted by the member organisations in thematic groups according to their own expertise and adopted jointly by the General Assembly of the National Coalition Austria in January 2019. The structure of the chapters should always follow the same scheme: Each chapter refers to the last recommendations of the UN Committee on the Rights of the Child from October 2012, to the current state report from April 2018 and to new political developments especially in the new government period in Austria since December 2017. Concrete recommendations to the UN Committee on the Rights of the Child can be found at the end of each chapter. However, this deliberate cooperative approach in the drafting of the report also led to the fact that the contents of the chapters partly overlap and are quite heterogeneous

## Problem areas of child rights 2019: Violence, poverty and asylum

The 44 member organisations have defined the three thematic areas of violence, poverty and also asylum and refugees as the focal points in the reporting process. These chapters are therefore more extensive than other chapters. The topic "child poverty", for example, very obvious-

ly and clearly shows a contradiction to the view of the State of Austria: In the State Party Report there is only one single sentence: "213. *In view of the problematic effects of poverty, it is pleasing that a promising trend towards a continuous decline in child poverty can be observed in Austria during the reporting period*". The present Supplementary Report, on the other hand, contains seven pages (!) on the extent of child poverty in Austria and, above all, on the expected negative effects of recent political legislative projects.

## "What is important to us - children's rights in Austria from the perspective of children and young people" (brochure and short film)

In addition to the Supplementary Report of the Network on the Rights of the Child, it is essential that the voice of children and young people themselves be included in the assessment of the implementation of the UN Convention on the Rights of the Child in Austria: The brochure "What is important to us – children's rights in Austria from the perspective of children and young people" and a short film were produced on behalf of the Network Children's Rights Austria with the financial support of the Federal Chancellery, Federal Ministry for Women, Families and Youth. The brochure and short film produced by children and young people were also submitted to the UN Committee on the Rights of the Child. In the opinion of the children and young people, the greatest need for action still exists with regard to the children's rights "right to equality", "right to privacy", "right to protection against exploitation and violence" and "right to play and leisure time".

In principle, children and young people in Austria are fine, but ...

# A. General implementation measures

## (Art. 4, 42 and 44 Par. 6 UN-CRC)

### A.

#### Current situation

In connection with fundamental, structural measures to guarantee children's rights in Austria, the UN Committee on the Rights of the Child identified the following problem areas in particular in 2012: the still remaining reservations under international law,, the anchoring of children's rights in the Constitution without fundamental social rights, a lack of strategy and coordination of implementation measures from a child rights perspective, insufficient data, including data on government expenditure on measures to implement children's rights, inconsistent protection of children, as well as insufficient dissemination of children's rights in schools as well as in training and further education programmes.

#### Developments during the reporting period

An analysis of the state implementation measures taken since then, shows that there have been positive further developments in individual areas, but that these have been offset by serious deficits, particularly at the structural-organisational level.

The withdrawal of the international-law reservations by parliament in 2015, the standardisation of youth-protection (regulations on alcohol, tobacco consumption, curfew) in April 2018 (with the exception of Upper Austria) and the establishment of a "**Children's Rights Board**" as a committee of experts to advise the Minister of Family Affairs and potentially other government agencies are to be recognised. The work of the Board, which consists of representatives of various institutions and disciplines relevant

to children's rights, including civil society, is directly oriented on the recommendations of the UN Committee on the Rights of the Child of 2012, and in its meetings and thematic project groups also deals with current concerns and developments (e.g. with regard to the sometimes problematic dealing with young people by the police in the context of identification and other measures under the Security Police Act). On the basis of its advisory function, the Board cannot replace effective state coordination of implementation measures at federal, federal-state and local level, nor can it perform independent monitoring in the sense of a national human rights institution in accordance with the Paris Principles due to a lack of legally guaranteed independence or independent resources.<sup>1</sup> The Board's work has made it possible to draw up comprehensive reports, for example on the situation of child refugees and child rights in the education sector, legal reports and the development of a web-based "fact book" on data relevant to child rights. However, a transparent overview of government expenditure at all levels of the administration for the protection of children's rights is still lacking.

At a strategic level, the criticism of the lack of a children's rights strategy or a **National Action Plan for Children's Rights** is still ongoing. The implementation of a document adopted in 2004 was discontinued shortly afterwards due to a lack of political will, and the reference in the current report of the Federal Government to individual existing strategy documents (e.g. NAP Disability, NAP Violence against Women, Child Health Strategy) cannot replace comprehensive instruments that combine responsibilities and are based on children's rights.

<sup>1</sup> Cf. the Global Alliance of National Human Rights Institutions, <https://nhri.ohchr.org>.

However, as an expression of political-structural disregard for children's rights, the shift in competences for constitutional responsibilities for **child and youth welfare**, decided in 2018, must be assessed in particular. After serious cases of violence against children in families led to repeated debates on the effectiveness of the protection against violence in Austria, the then named "Jugendwohlfahrt" (child and youth welfare) was reformed in 2013 and a new Federal Child and Youth Welfare Act (B-KJHG) was passed (see the chapter on violence against children for details). This law increasingly provided for uniform, Austrian-wide standards, particularly in the area of reporting endangerment of the best interests of the child and assistance planning, as well as planning and steering instruments.<sup>2</sup> Within this framework, the federal states subsequently passed implementing legislation. In 2018, however, following a political agreement between the provincial governors and the Federal Government on the issue of the de-centralisation of competences, an amendment to the Federal Constitution was adopted without prior consultation of the experts, according to which, responsibility for legislation and implementation in the field of child and youth welfare would in future (from 2020) lie exclusively with the nine federal states (see also the chapter on General principles). This severe shift in competence calls into question the guarantee of common, non-discriminatory standards in such key areas of child rights as the protection of children from violence, preventative measures, access to social services to support parents and families and also the nationwide anchoring and definition of Ombudsoffices for children and youths in all federal states and was rejected by a broad alliance of Ombudsoffices for children and youths, child protection institutions, service providers, research and practice, including the National Coalition Austria.<sup>3</sup> A Federal Council enquiry concerning the further development of child and youth welfare in November 2018, in which numerous experts repeated their criticism of the planned shift of competences, was nevertheless unable to prevent the adoption of the amendment to the Constitution. It is significant that a comprehensive evaluation of the B-KJHG commissioned by the then Ministry of Family Affairs in 2015 and completed

in autumn 2018, which among other things recommended nationwide uniform standards<sup>4</sup>, was not published until after the parliamentary debate in December 2018. The "effect-oriented impact assessment"/"youth check" highlighted in the Austrian State Party report as a successful instrument for introducing a child rights perspective, proved to be practically ineffective in the specific case (as well as in amendments to aliens and asylum law – see also the chapter on Special protection measures) – the bill included only a "simplified examination" without an actual impact assessment, which in itself is only intended for measures without "significant effects" on children and adolescents. In response to the criticism, the Federal Government and the federal states announced for 2019, that the uniformity of standards would be maintained by a so-called Art 15a B-VG Agreement, which would enable the conclusion of agreements between the Federal Government and the federal states. This, however, abandons a previously existing clear legal anchoring of standards in favour of contractual voluntary agreements between the parties, with deteriorations in the area of law enforcement, further development of standards and monitoring. Furthermore, the Federal Chancellery/Family Ministry will be deprived of a clear mandate to ensure a leading role within the Federal Government in child rights matters in the area of child protection. This happened despite already existing problems to fulfil this task sufficiently, considering the weak role of the Family Ministry in dealing with child refugees in Austria which is dominated by child-inappropriate approaches by the Ministry of the Interior (see also Special protection measures).

Finally, considering children's rights as an aspect of human rights in the form of a teaching principle "civic education" is not an adequate implementation of the mandate to guarantee the **education on children's rights** in schools and in **education and training programmes** (see also chapter Education).

The **Complaints Protocol** to the UN Convention on the Rights of the Child (3rd Optional Protocol of 2011) offers unique opportunities for addressing and improving the implementation of

<sup>2</sup> See also the highlighting of the positive aspects in the current report of the Federal Government, par. 19.

<sup>3</sup> Cf. the press conference of 26 June 2018 "Broad Alliance Against "Change" in Child and Youth Services." ("Breites Bündnis gegen eine "Veränderung" der Kinder- und Jugendhilfe") and press release, [https://www.ots.at/presseaussendung/OTS\\_20180626\\_OTS0148/pressekonferenz-breites-buendnis-gegen-a-verlaenderung-der-kinder-und-jugendhilfe-bild](https://www.ots.at/presseaussendung/OTS_20180626_OTS0148/pressekonferenz-breites-buendnis-gegen-a-verlaenderung-der-kinder-und-jugendhilfe-bild).

<sup>4</sup> Cf. recommendation 7 (p. 122): " ... it seems sensible to apply the same basic principles and standards to professional work in child and youth welfare throughout Austria. Kapella/Rille-Pfeiffer/Schmidt, Evaluation of the Federal Child and Youth Welfare Act (B-KJHG) 2013 – Summary report of all modules and assessment, ÖIF 2018; see also Recommendation 9 on improved cooperation with system partners in child and youth welfare.



children's rights in Austria and at an international level. Austria was among the first signatories in 2012. Since then, however, ratification is still pending, with no follow-up.

Another important aspect of general implementation measures concerns Austria's international cooperation on children's rights. **Development cooperation**, in particular, can make a substantial contribution to the fulfilment of children's rights. Due to the significant reduction in eligible costs for asylum seekers, the total amount of *EZA-Leistungen* / Official Development Assistance (ODA) fell from 0.42% of gross national income (GNI) in 2016 to 0.30% in 2017. Even though declarations of intent for a long-term approximation of ODA to 0.7% of GNI were repeatedly made, the government programme 2017-2022 does not contain a binding timetable for achieving this goal. Apart from the financial aspect, there is no coherent strategy in the government programme for implementing the children's development cooperation focus paper or the development cooperation guideline on human rights in society as a whole.

Austria is not only called upon to fulfil children's rights through development cooperation measures, but also to ensure the protection of children's rights in all its international activities. **Extraterritorial obligations** (ETOs) describe the human rights obligations of a state towards

people in other countries according to the means at its disposal. Austria's agricultural, financial and trade policy currently lacks a child rights approach, i.e. there is no systematic and independent examination of the impact on child rights and no monitoring mechanisms to examine the impact of Austrian policies and projects in third countries.

The UN Committee on the Rights of the Child obliges states to create all necessary framework conditions to guide companies in how they can consider children's rights in their planning and ensure that children's rights are not violated. Within the Austrian value chain, however, there is as yet no mechanism to ensure that children's rights are not violated.

Children are particularly vulnerable to climate change. **Climate change** poses a drastic threat to children's basic rights (development, survival, health, food security, water and access to education). The debate on ecological children's rights is still largely absent from the *UN Framework Convention on Climate Change*, and the Austrian government's climate strategy still pursues too few ambitious goals, for example with regard to greenhouse gas emissions that are even rising. The current climate targets are not sufficient to meet the internationally binding targets of the Paris Climate Agreement.<sup>5</sup>

## Recommendations

On the basis of the previous evaluation, the National Coalition Austria sees an urgent need for action with regard to the following measures:<sup>6</sup>

- 1) **Development and implementation of a National Action Plan on Children's Rights, as a comprehensive strategic and action programme, involving civil society as well as children and young people, based on the experiences of the previous Action Plan and similar instruments, in particular ensuring indicators to measure progress and independent monitoring of implementation.**
- 2) **Ensuring common standards in child and youth welfare, in particular with regard to protection against violence, preventative measures, interfaces to other sectors (e.g. police/justice, education/school, health, social welfare); the development of an Art. 15a Agreement on child and youth welfare should be carried out with expert participation and consideration of the evaluation results and other quality assurance processes and should include a mechanism for the further development/strengthening of child and youth welfare, as well as independent monitoring and evaluation.**
- 3) **Establishment of an independent child rights monitoring office modelled after Germany, inter alia to ensure the aforementioned measures (see also chapter Family environment and Alternative care; chapter Social welfare and poverty).**

<sup>5</sup> See also <https://www.climate-change-performance-index.org/country/austria-2019>.

<sup>6</sup> For further recommendations on legal or structural-organisational measures, see the following chapters.

- 4) Child rights-oriented revision of the Security Police Act with regard to dealing with children, adolescents and cooperation with child protection facilities.
- 5) Independent budget funds of the Federal Government, the federal states and the municipalities for programmes focusing on children's rights to raise awareness of children's rights, based on the participation of children and young people.
- 6) Development and implementation of a national research agenda on children's rights, including funding programmes to expand the collection of child-specific data, childhood research, generation dialogue, *impact assessment* and evaluation research.
- 7) Introduction of a *child budgeting* instrument to strengthen the transparency of government spending on the protection of children's rights.
- 8) Development and implementation of an action plan for systematic child rights training for professional groups, in particular for elementary education, teachers, social work, institutional care, health services, police and juvenile detention staff.
- 9) Ratification of the 3rd Optional Protocol to the UN Convention on the Rights of the Child, in conjunction with campaigns/programmes at a national level for increased legal protection for children and young people: Strengthening of the Ombudsoffices for Children and Youths in the federal states, focus on children's rights for all visiting-commissions of the People's Advocate's Office, low-threshold complaint and feedback mechanisms for children in schools as well as in institutions (e.g. Advocacy by a trusted person); expansion of counselling and support services for children as well as overall expansion of participation opportunities for children and young people in guaranteeing their right to justice.
- 10) With regard to development cooperation:
  - In cooperation with civil society organisations, development of a transparent and intersectional framework for mainstreaming children's rights in the project and programme cycle and in the Three-Year Programme of the Austrian Development Cooperation (ODA).
  - Ensuring a child rights focus in the implementation of the sustainability goals (SDGs) in Austria.
  - Securing child rights expertise and implementation resources to ensure coherent measures in the Foreign Ministry, the Austrian Development Agency (ADA) and the coordination offices in partner countries.
  - Establishment of a mandatory timetable to achieve the international objective of increasing ODA to 0.7% of GNI.
- 11) With regard to Austria's extraterritorial obligations:
  - Establishment of systematic and independent child rights impact assessments and monitoring mechanisms, as well as inter-ministerial, interdepartmental working groups to ensure policy coherence, continuity and exchange of best practices and lessons learned.
  - Development of instruments for a due diligence obligation concerning children's rights in order to oblige Austrian companies to establish transparent risk management systems with regard to their own company activities as well as those of supply chains.
  - Review from a child rights perspective and strengthening the Austrian climate strategy in order to be able to fulfil the objectives of the Paris Climate Agreement in the interest of guaranteeing children's rights.

# B. Definition of the child

## (Art. 1 UN-CRC)

### B.

We would like to refer to still valid concerns and recommendations raised in the 3rd/4th Supplementary Report (2011) of the National Coalition Austria.

# C. General principles

## (Art. 2, 3, 6 and 12 UN-CRC)

### C.

#### Principle of the best interests of the child being a primary consideration

*In its concluding remarks, the Committee recommends that Austria will make efforts to ensure that the principle of the best interests of the child is adequately integrated and consistently applied in all legislative, administrative and judicial procedures, as well as in all strategies, programmes and projects relevant to children and affecting children.*

A 12-point checklist in § 138 of the Austrian Civil Code ("ABGB" Allgemeines Bürgerliches Gesetzbuch) specifies statutory criteria for safeguarding the best interests of the child. The list is comprehensive and auspicious. There is no consistent planning of Austria-wide measures to implement and safeguard these criteria:

#### § 138.

In all matters concerning children, in particular custody and personal contacts, the best interests of the child (Kindeswohl) shall, as optimally as possible, be taken into account as a guiding principle and guaranteed. Important criteria for the assessment of the best interests of the child are particularly

1. adequate care, in particular food, medical and sanitary care and housing, as well as a careful upbringing of the child;
2. solicitude, security and protection of the physical and mental integrity of the child;
3. the appreciation and acceptance of the child by the parents;
4. the promotion of the child's talents, abilities, aptitudes and developmental possibilities;
5. the consideration of the child's opinion depending on his or her understanding and ability to form opinions;

6. the avoidance of the impairment that the child could suffer by implementing and enforcing a measure against his or her will;
7. the avoidance of the danger for the child to suffer assaults or violence or to experience them with important caregivers;
8. the avoidance of the danger for the child of being unlawfully removed or detained or of being otherwise harmed;
9. the child's dependable contact with both parents and important caregivers and the child's secure attachment to these persons;
10. the avoidance of conflicts of loyalty and feelings of guilt on the part of the child;
11. safeguarding the rights, claims and interests of the child; and
12. the living conditions of the child, its parents and its environment.

The following figures draw a picture that is in stark contrast to the criteria mentioned above:

#### Poverty

324,000 children and young people in Austria are at risk of poverty. 130,000 children and adolescents live in manifest poverty. Children at risk of poverty are less well provided with food, medical care and housing, they are often excluded from social participation and have demonstrably worse development opportunities. In addition, poverty is a risk factor in terms of care, security and protection of the child, as well as appreciation and acceptance by the parents (see also chapter on Social services and poverty).

#### Violence

Violence as a means of upbringing has clearly declined since the Violence Prohibition Act of 1989, but it is still present, although today

hardly as a deliberately chosen measure, but as a result of parental stress. The 2011 violence prevalence study shows that 72.6% of women and 73.7% of men surveyed experienced physical violence in their families up to the age of 16 (see also chapter on Violence).<sup>7</sup>

### Alternative care

Whether a child has to be taken out of parental care and placed in alternative care for his or her protection, or whether measures in the family can ensure the child's protection, is regulated very differently throughout Austria. As recently as 2017 the People's Advocate's Office criticised the fact that in Vienna, Styria and Vorarlberg a particularly large number of children had been placed in alternative care. Some of the children were placed far away from their parents. This stands in clear contradiction to some of the criteria regarding the best interests of the child mentioned, in particular to contact with both parents or the avoidance of conflicts of loyalty and feelings of guilt (see also chapter Family environment and alternative care).

### Parental custody in the event of separation of parents

Two essential advisory services are intended to ensure the best interests of the child in the event of parental separation and in the event of conflicts over custody:

Article 95 (1a) of the Non-Contentious Proceedings Act (Außerstreitgesetz – AußstrG) is intended to ensure the best interests of the child in the everyday reality of parents wanting to divorce. Article 107 (3) of the Non-Contentious Proceedings Act includes the obligatory consultation of a family, parent or educational counselling if the best interests of the child are endangered in custody and contact proceedings. This counselling is offered by specially selected counsellors. However, the costs for this mandatory counselling must be covered by the parents. From a professional point of view, mandatory counselling that burdens the parents' budget should be viewed critically. Some parents cannot bear the costs, this discrepancy harbours new conflict potential between the separated parents. Also, the fees of recognised counsellors are not regulated, which is why parents are sometimes confronted with very high costs.

Children are particularly burdened by highly conflictual separations of their parents and subsequent parental custody and contact rights disputes. In addition to educational counselling pursuant to Article 107 (3) Non-Contentious Proceedings Act, there are other services that can be used to safeguard children's rights and protect children. These include a children's guardian (Kinderbeistand) and family court assistance (Familiengerichtshilfe). Nevertheless, it happens repeatedly that children are crushed by conflicts over custody and contact rights, often lasting for years, with the consequences that they have to see one parent against their will or are powerlessly at the mercy of one parent preventing contact.

### Child and youth welfare

The new Federal Child and Youth Welfare Act, adopted in 2013, in which, among other things, the four-eyes principle was introduced, which includes the introduction of regulations on risk assessment and assistance planning, the adjustment of confidentiality provisions and the establishment of information rights for children and young people, is currently at risk. On the basis of a current draft law, against the unanimous opinion of countless experts, child and youth welfare should be transferred exclusively from the shared responsibility between the Federal Government and the federal states to the competence of the federal states as guardians of the best interests of the child. For quality assurance, an agreement on quality criteria is promised, which, however, is less binding, can be terminated at any time and does not constitute any subjective entitlements. Whether the Federal Government will play a role and what role it will play in future in safeguarding children's rights and child protection and what contents of the Child and Youth Welfare Act will be retained, remains to be seen.

In our view, this shift in competence contradicts the recommendations of the UN Committee on the Rights of the Child from 2012, which propose a clear expansion of federal responsibility. In addition, we see a threat to child protection (see also chapter General implementation measures and chapter Family environment and alternative care).

<sup>7</sup> Cf. Kapella/Baierl/Rille-Pfeiffer/Geserick/Schmidt, Violence prevalence study 2011, p. 230.

## Recommendations

- 1) Concrete measures to combat child poverty in Austria and to implement the above criteria in practice. One measure would be the introduction of a child minimum income support scheme (Kindergrundsicherung).
- 2) Expansion of early care counselling in Austria.
- 3) Expansion of nationwide parental education and counselling services that are accessible free of charge.
- 4) Creation of an Austria-wide framework with uniform criteria and support services for families to ensure the best interests of the child.
- 5) Clear rules for safe contact between children and their parents as well as for prerequisites in alternative care that effectively ensure the best interests of the child. Group sizes, hiring criteria as well as training and further education of employees are to be regulated uniformly.
- 6) Solution for the covering of costs (at least in case of need) for mandatory counselling in order to enable all parents willing to get advice, to make use of such advice.
- 7) Activities to further sensitise the courts, family court assistance and experts regarding the special needs of children in such situations and the strain on children caused by these decisions – in order to implement criteria 9, 10 and 11 in practice here as well. A careful examination is required on how and when information from existing assistance measures can be taken into account in advance in court proceedings (keyword networking).
- 8) Creation of interfaces between the federal states, but also interfaces to other systems such as health, education/school, social welfare/ minimum benefit system etc. as a minimum measure.
- 9) Implementation of a national action plan against violence against children, as well as preservation of federal principles.

C.

## Participation

The measures set out in the combined 5th/6th Austrian State report to expand participation possibilities for children and young people are to be welcomed.

The possibility for all children and young people to participate is a core principle of the UN Convention on the Rights of the Child. Nevertheless, children are still not considered as co-deciding authorities in all matters affecting them. Children are still heavily dependent on adults for their participation opportunities and are usually only involved in decisions on a selective basis. Apart from selective, often project-oriented participation possibilities, it is necessary to offer children more scope for co-decision, especially when it comes to decisions affecting them. Participation, as a cross-cutting issue, should enable children to have a say and make decisions in all areas of life relevant to them. In addition to the commitment of young citizens on the one

hand, participation in this respect also requires the sharing of responsibility and power on the other.

### Information on participation possibilities

Knowledge of participation possibilities is a fundamental prerequisite for creating access to participation. The range of participation possibilities should therefore be made known to all children and young people in an age-appropriate form.

### Implementation of participation structures

Dependable participation structures should be developed and established together with children, young people and caregivers in educational and care institutions. There, co-determination can be experienced and learnt in early childhood. A logical, necessary step would be to enable children and young people to participate in all educational and care institutions.

## Participation and inclusion

Participation cannot be limited to individual areas of life and can only succeed if different decision-makers work together with schools, child and youth work, youth welfare organisations, parents and others.

In a representative democracy, the central instrument of co-determination and active participation is embodied in the right to vote.<sup>8</sup> This, however, excludes nationals of third countries. In Vienna, some 60,000 young people and young adults between the ages of 16 and 25 grew up in the city, but are not entitled to vote. Beyond participation in elections, participation is an important key to the development of the understanding of democracy and political judgement and ability to act. Especially for young people who are excluded from co-determination, politics often appears as an abstract unknown. It therefore requires active involvement and co-decision-making through direct participation possibilities that make politics tangible for all and promote democratic competence.

## Learning to participate

The expansion of participation possibilities in the non-formal education sector, which opens up low-threshold access to the inclusion of all children and young people, plays a central role in the inclusion and self-efficacy of all persons living in Austria. Through its informal, voluntary character, school-external child and youth work makes it possible to experience and learn participation in a low-threshold, social environment oriented way and independent of citizenship or socio-economic status. In this context, open child and youth work embodies a central area of the public infrastructure that creates access to inclusive participatory processes for all children and young people. Within the framework of open child and youth work, participation can take the form, for example, of shaping one's own living environment and social space in a participatory manner. It is therefore important to strengthen these areas at a structural level and to guarantee and expand support.<sup>9</sup>

## Strengthening and maintaining interest groups

Under the principle "young people represent the interests of young people", a law has been in force since 1973 regulating the election into the Youth Trust Council (Jugendvertrauensrat). The plans written down in the government programme to abolish this instrument of co-determination for young people in the workplace are to be criticised.<sup>10</sup> The lowering of the active voting age, which grants all young people aged 16 and over the right to vote in employee representative elections, does not replace the function of youth trust councils. Young people need an interest group that exclusively takes care of the interests of young employees.

The Federal Youth Representation (BJV – Bundes Jugend Vertretung), which represents the interests of all young people aged 0-30 in Austria, has been enshrined in law since 2001 and is on an equal footing with the other statutory interest representations in youth matters. Nevertheless, there is still a lack of full involvement of the BJV on the part of political institutions and a lack of legal safeguard for the financing of this interest group.

## Civic education in all types of schools

Civic education is still anchored in most school types as an interdisciplinary teaching principle or combination subject, but not as an independent subject. Political participation of children and young people depends to a large extent on civic education. From the point of view of promoting participation, the implementation of a separate subject "civic education" from the 5th grade onwards in all school types seems necessary in order to convey and expand interest in and competence in political participation.

## Youth strategy

It must also be noted that the continuation of the Austrian youth strategy<sup>11</sup> with its central field of action "Participation and Commitment" as well as its extension and further development in terms of content are to be assessed positively.

8 See Association of Viennese Youth Centres (2017): #initiativewahlrecht, position paper long, <https://www.jugendzentren.at/publikationen-blog-beitraege/publikationen/>.

9 See Benedikt Sturzenhecker, Gesellschaftliches Engagement von Benachteiligten fördern (Promoting the social commitment of disadvantaged people). Volume 1: Conceptual Foundations for Open Child and Youth Work (Bertelsmann Stiftung, 2nd edition Gütersloh 2015).

10 Cf. Website of the Austrian Federal Chancellery, Zusammen. Für unser Österreich (Together. For our Austria), Government Programme 2017-2022, p. 103, <https://www.bundeskanzleramt.gv.at/documents/131008/>.

11 See website of the Austrian Federal Chancellery, online at: <https://www.frauen-familien-jugend.bka.gv.at/jugend/jugendstrategie.html>.



The development of a similar strategy for, and as a means of co-determination for children appears necessary in order to promote democratic competence at an early age.

### Hotline for children/emergency number "147 Rat auf Draht"

The 2005 recommendation of the UN Committee on the Rights of the Child to continue to support the emergency number "147 Rat auf Draht" and to secure structures to ensure the efficient operation of this service has still not been fully met. It therefore remains relevant.

The emergency number "147 Rat auf Draht", structurally part of SOS-Kinderdorf, is financed by the Federal Chancellery – Section Women, Youth and Family, the Ministry of the Interior, the Ministry of Education and the Ministry of Social Affairs as well as all federal states except Vienna. However, these subsidies account for only 30% of the necessary budget. The corresponding cooperation agreements are only concluded for one to a maximum of two years. In 2018, "147 Rat auf Draht" recorded 81,049 contacts.<sup>12</sup>

## Recommendations

- 1) **Creation of opportunities for children and young people to participate in decision-making at all levels, including European and international level.**
- 2) **Opportunities for co-determination for children and adolescents in all educational and care institutions.**
- 3) **Nationwide expansion and financing of open child and youth work as a central socialisation instance promoting participation.**
- 4) **Stronger anchoring and promotion of civic education both in and outside schools.**
- 5) **Civic education as an independent school subject from the 5th school level on.**
- 6) **Continuation of youth trust councils (JugendvertrauensrätlInnen) and lowering of the voting age for employee representative elections.**
- 7) **Legal safeguards for the financing of the Federal Youth Representation (Bundes Jugend Vertretung).**
- 8) **Index adjustment of funding for children's and youth organisations.**
- 9) **Complete inclusion of the Federal Youth Representation in political processes and decisions in accordance with its social partnership status.**
- 10) **Development of a national children's strategy along the lines of the Austrian youth strategy.**
- 11) **Supporting and ensuring structures concerning the emergency number "147 Rat auf Draht".**
- 12) **Initiation of the discussion on the reform of citizenship and voting rights due to the increasing number of young people in Austria who are at voting age but excluded from the right to vote.**

C.

<sup>12</sup> See 147 Rat auf Draht (2015): (Cyber-)Mobbing Current Impression Results, (Cyber-Mobbing Stimmungsbild Ergebnisse). [http://www.rataufdraht.at/getmedia/fbe9a0c4-6c94-4339-a988-00cf38aa21b2/RaD\\_Cybermobbing-Umfrage-Fokusgruppen-ERGEBNISSE\\_1.pdf](http://www.rataufdraht.at/getmedia/fbe9a0c4-6c94-4339-a988-00cf38aa21b2/RaD_Cybermobbing-Umfrage-Fokusgruppen-ERGEBNISSE_1.pdf).



# D. Civil rights and fundamental freedoms

## (Art. 7, 8, 13-17, 19 and 37 (a) UN-CRC)

### Protection against violence on the Internet

The newly established criminal offences of cyberbullying and grooming (Art. 107c, 208a Penal Code) should be positively highlighted. However, the 302 criminal charges under Section 107c of the Criminal Code cited in the State Report only resulted in six convictions in 2016. In 2017, there were 106 criminal charges under Section 208a of the Criminal Code with only seven convictions<sup>13</sup>.

On the other hand, the number of unreported cases is high: 30% of young people have already experienced cyberbullying.<sup>14</sup> 27% of 11- to 18-year-olds have already experienced sexual harassment on the Internet at least once. Girls are affected three times more often (40%) than boys.<sup>15</sup> The experiences range from awkward sexual questions to sexual abuse. Often nude photos are sent unwanted to children or they are asked to send photos themselves. 14% have already been victims of cyber-grooming. At the same time, more than half of young people do not know that this is punishable. Sexual harassment on the net is considered "normal". Many young people believe that nothing can be done about it and often blame themselves. Only 8% turn to the police. Experience of the Helpline Rat auf Draht and other hotlines shows that victims are often not taken seriously by the police or that the police are not even aware that they are criminal offences.<sup>16</sup>

As far as cooperation with website operators is concerned, it should be critically noted that, despite political agreements, hate-content and violent content is deleted only with considerable delay, if at all. The "bashing video" mentioned in the state report, was online for days and was clicked several million times before it was deleted from Facebook. Reporting offices and help-lines also recently experienced deterioration in cooperation with operators such as Facebook. The number of racist hate postings on the Internet has also risen steadily in recent years.<sup>17</sup>

The establishment of the "Criminal Law Task Force" by the government with a focus on digital violence is to be mentioned in recognition of this. However, the implementation of its recommendations remains to be seen. The further financing of the advice centre "#GegenHAssimNetz" mentioned in the state report is currently open.

### Media literacy

The mandatory exercise of "digital basic education" in the curricula of secondary schools and the lower level of grammar schools mentioned in the state report is expressly to be welcomed. However, compulsory media education would be necessary in the curricula of all school types and levels from primary school onwards.

Moreover, media education is not a compulsory content in the initial and further training of educators. There are also no binding concepts for the prevention of violence in schools.

13 See parliamentary question response on sexual harassment of children and young people on the Internet (3214/AB-BR/2018), [https://www.parlament.gv.at/PAKT/VHG/BR/AB-BR/AB-BR\\_03214/imfname\\_700224.pdf](https://www.parlament.gv.at/PAKT/VHG/BR/AB-BR/AB-BR_03214/imfname_700224.pdf).

14 Cf. 147 Rat auf Draht (2015): ((Cyber-)Mobbing, Current Impression Results), (Cyber-Mobbing, Stimmungsbild. Ergebnisse), [http://www.rataufdraht.at/getmedia/fbe9a0c4-6c94-4339-a988-00cf38aa21b2/RaD\\_Cybermobbing-Umfrage-Fokusgruppen-ERGEBNISSE\\_1.pdf](http://www.rataufdraht.at/getmedia/fbe9a0c4-6c94-4339-a988-00cf38aa21b2/RaD_Cybermobbing-Umfrage-Fokusgruppen-ERGEBNISSE_1.pdf).

15 See Institute for Youth Culture Research (2018): Sexual harassment and violence on the Internet in the lives of 11 to 18-year-olds. Study commissioned by SOS-Kinderdorf and Rat auf Draht, p. 27f, [www.sos-kinderdorf.at/studienergebnisse](http://www.sos-kinderdorf.at/studienergebnisse).

16 See Institute for Youth Culture Research (2018): Sexual harassment and violence on the Internet in the lives of 11 to 18-year-olds. Study commissioned by SOS-Kinderdorf and Rat auf Draht, pp. 32-38, [www.sos-kinderdorf.at/studienergebnisse](http://www.sos-kinderdorf.at/studienergebnisse); Institute for Youth Culture Research (2018): Sexual harassment and violence on the Internet in the lives of 11 to 18-year-olds. Study commissioned by SOS-Kinderdorf and Rat auf Draht, p. 22, [www.sos-kinderdorf.at/studienergebnisse](http://www.sos-kinderdorf.at/studienergebnisse).

17 See ZARA (2017): Racism Report 2017. Individual Case Report on Racist Violations and Structures in Austria (Rassismus Report 2017. Einzelfall-Bericht über rassistische Übergriffe und Strukturen in Österreich), <https://zara.or.at/de/wissen/publikationen/rassismusreport>.

The projects and programmes mentioned in the state report are positive individual measures, but they do not replace a nationwide awareness-raising.

In addition to formal education, however, the promotion of media literacy reaches at least equally into extracurricular youth work: For example, the Screenagers-Study from Vienna (2016)<sup>18</sup> shows that young people are more likely to consult adults with whom they have established a personal relationship on questions relating to media topics (from experience in digital space to technical know-how). In particular, they tend to approach educators from extracurricular youth work more often because – as far as media is concerned – they attribute a higher level of competence to them (in relation to teachers, their parents, etc.). There is also agreement in science that media competence – or media literacy – can be promoted especially through informal learning. Extracurricular youth work as a place for informal learning should therefore be given special importance in regard to media literacy.

Topic-specific projects and special activities are not enough to sustainably promote media literacy. Media literacy can only be achieved if the environment in which young people find themselves – i.e. the setting – is media competent. As long as educational institutions are not sufficiently equipped with technical resources, pedagogues have insufficient know-how about media topics and the smartphone is often not

seen by the formal education sector as a reality of life for young people and thus as a potential resource, but rather as a "thing of evil" from which young people should be "saved", a setting that promotes media literacy will, however, be difficult to achieve. Measures for this would certainly be training and further education, coaching on site, and better technical equipment for school and extracurricular youth facilities (e.g. nationwide WiFi in schools, youth centres, etc. that can be used by young people).

People who can be ascribed to "Generation Z" deal with hardware and software naturally. The most important skills to move in the digital environment are acquired through informal learning (imitation, observation, etc.). However, this does not mean that these skills are sufficient in later life for education and work. Young people therefore have to learn (even more than ever, due to the prevalence of media in their careers and training) important skills on the way to a competent use of media: these include, of course, sufficient basic education (reading, writing, etc.), the use of a keyboard (keyword "ten-finger system"), the use of "classic" software (word processing programs, spreadsheets, graphics programs, etc.) and a range of social skills (conflict management, stress resistance, etc.). Particularly with regard to basic education and "computer science teaching", the formal education sector is called upon to take measures – for example, increased interdisciplinary teaching or the expansion of technical resources in educational institutions.

D.

## Recommendations

### Prevention and more effective prosecution of acts of violence against children on the Internet:

- 1) Improving awareness and training of law enforcement authorities
- 2) Evaluation and further development of criminal legislation
- 3) Awareness-raising measures to prevent criminal offences and promote readiness to report them
- 4) Better law enforcement and faster processing of reports of hate postings and violent content through greater obligation of site operators
  - Media literacy as a compulsory component of the curricula of all school types and levels; compulsory violence prevention concepts in schools; expansion of school social work and psychology.
  - Media literacy as obligatory teaching content in education/training of pedagogues
  - More resources to promote media literacy and violence prevention in extracurricular youth work
  - Expansion of further training programs and awareness raising for parents/guardians in the field of media literacy and online violence; inclusion of corresponding offers in the new mother-child pass as an incentive for further training.

<sup>18</sup> See City of Vienna (2016): Screenagers – International Research Project, [https://www.wienextra.at/fileadmin/web/medienzentrum/PDF/Screenagers\\_Bericht\\_DigitaleMedienJugendarbeit.pdf](https://www.wienextra.at/fileadmin/web/medienzentrum/PDF/Screenagers_Bericht_DigitaleMedienJugendarbeit.pdf).

# E. Violence against children (Art. 19, 34, 37 (a) and 39 UN-CRC)

## Violence in upbringing

*In its concluding remarks, the Committee recommends that the State party promotes and further develops awareness-raising programmes and campaigns to promote positive and alternative forms of discipline, and respect for children's rights, with the participation of children and in accordance with General Comment No. 8 (CRC/C/GC/8, 2006). It also recommends that the State party continues to educate teachers and parents about the immediate and long-term negative consequences of corporal punishment of children, including its psychological and physical effects.*

The use of violence as a means of discipline, Corporal punishment, i.e. punishment using physical force, Austria is thus the fourth country in the world, after Sweden, Finland and Norway, to have anchored non-violent education in law.

The attitude towards violence in education has changed over the years to the extent that violence in education is rejected by society as a whole. A study from 2014 by the Federal Ministry for Family Affairs<sup>19</sup> shows that all forms of physical violence: slapping with the hand (rejected by 78%, an increase in rejection compared to 1977 of 51%), severe slaps in the face (rejection increased by 34%), light slapping (rejection increased by 30%) are significantly less accepted than in the comparable period of 1977.

However, the same study also shows that violence experienced by the interviewees themselves can lead to a partly contrary result: 62% of the interviewees experienced corporal

punishment themselves with a light slap. Here an increase of 14% compared to 1977 could be observed. Other corporal punishments such as slapping fingers, ear pulling, hair pulling etc. also increased (plus 5%), as did beating with objects (plus 7%). There was a strong increase especially in educating methods without physical impact, not talking to the child for a longer time (plus 19%), to be upset and blame (plus 25%), to scream and to scold (plus 32%). Slapping with the hand (minus 3%), violent slaps in the face (minus 1%) decreased slightly.

From this result it can be concluded that, although massive violence is widely rejected in education, it still happens, that lighter forms of violence are much more strongly rejected than in 1977, but partially even increased. This means that there is probably a changed awareness, but the implementation of the prohibition of violence does not succeed comprehensively.

The figures in this study also show that psychological violence in upbringing is on the rise, triggered, for example, by overstress or a lack of awareness of the effects of psychological violence.

A study by the "Die Möwe" Child Protection Centres from 2016<sup>20</sup> with 1,000 interviewees shows that although 95% clearly name a beating by the father as violence, a light slap in the face by only 34% is classified as a violent act.

This study also makes it clear, that various forms of psychological violence, such as not talking to the child for days as a punishment, are understood as violence by only 26%.

<sup>19</sup> Cf. THE RIGHT TO A NON-VIOLENT CHILDHOOD, 25 years legal prohibition of violence – an interim balance, (DAS RECHT AUF EINE GEWALTFREIE KINDHEIT, 25 Jahre gesetzliches Gewaltverbot – eine Zwischenbilanz), <https://www.frauen-familien-jugend.bka.gv.at/dam/jcr:cf6bc384-8306-46f5-a6c0-724de34f924d/Gewaltfr%20Kindheit.pdf>.

<sup>20</sup> Vgl. dazu Studie Einstellung zu Gewalt und Missbrauch, die möwe Kinderschutzzentren, <https://www.die-moewe.at/de/projekt/studie-einstellung-zu-gewalt-und-missbrauch>.

## Recommendations

- 1) Raising awareness of all forms of violence in education, both physical and psychological, for example through regular awareness campaigns throughout Austria.
- 2) Developing low-threshold and free counselling services for children, young people and parents.
- 3) Expansion of early intervention to identify and address overstress early – preferably including a "welcome visit" (a once-off visit to each family at the birth of a child) to avoid stigmatisation.
- 4) Expansion of parental education programmes, including non-violent upbringing.

## Sexual Violence

Austrian criminal statistics for 2016<sup>21</sup> show a total of 245 convictions for severe sexual abuse (§ 206) and sexual abuse (§ 207) of children.

A total of 595 cases<sup>22</sup> were reported in the reporting period. Only 8.8% of women who were victims of rape, filed charges<sup>23</sup>. The ratio is probably even lower among the children affected. The reason for this is that the majority of sexual violence occurs in the family, against women as well as children.

In Austria there is no current scientific (prevalence) study on how many children and adolescents are actually affected by sexual assaults and sexualised violence. Older studies show that 15 – 30% of all girls and 5 – 15% of all boys are sexually assaulted during their childhood and adolescence<sup>24</sup>, i.e. at least once during their childhood and adolescence they have experienced being touched against their own will in a form that they found pressurising or harassing.

The number of unreported cases in Austria is estimated between 10,000 and 25,000.<sup>25</sup>

The images that usually appear in the context of "sexual abuse" are terrible and full of violence: frightened children who are forced to perform actions and who experience great anxiety. They do exist – but not as often as is commonly assumed. Sexual abuse usually happens more quietly, more subtly. Often the children concerned do not even know that they are experiencing

sexual abuse. Someone is particularly kind to them and manipulates the child to endure something he or she feels at heart that he or she does not want to happen and that it is not right.

This often leads to girls and boys not being able to classify and name sexual assaults or acts of violence as such at first and are usually only looking for help after repeated assaults and with their own enormous feelings of guilt. Inadequate sexual education of the victims can be a reason for their own speechlessness and encourages this approach on the part of the perpetrators. Children are primarily trapped in the following emotional states: Feelings of guilt, feelings of embarrassment and shame, massive fears and fear of the consequences of exposure.

Sexual assault or violence is not an isolated act, but repetition is intended. This means that a child is usually subjected to sexual violence several times or that perpetrators are always looking for new victims as long as he/she is not exposed and the action is stopped. In most cases, a respected social status of the perpetrators makes it difficult to uncover sexual violence quickly and uncompromisingly.

The children affected usually make several attempts to confide in someone and "test" whether they are believed. Often they are not taken seriously for the first time in their efforts to communicate. On average, it takes five to seven attempts<sup>26</sup> for an abused child until he or she confides in someone that will believe and help him or her.

E.

21 Cf. volume of tables on judicial crime statistics 2016, [http://www.statistik.at/web\\_de/statistiken/menschen\\_und\\_gesellschaft/soziales/kriminalitaet/index.html](http://www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/soziales/kriminalitaet/index.html).

22 Cf. Federal Ministry of the Interior: Crime Report, Statistics and Analysis 2016, [https://www.bmi.gv.at/508/files/SIB\\_2016/03\\_SIB2016-Kriminalitaetsbericht\\_web.pdf](https://www.bmi.gv.at/508/files/SIB_2016/03_SIB2016-Kriminalitaetsbericht_web.pdf).

23 Cf. Emergency number. Counselling for raped women and girls Vienna, 2018, (Notruf. Beratung f. vergewaltigte Frauen und Mädchen Wien, 2018), [http://frauenberatung.at/images/Aktuelle\\_Version\\_ZAHLENundFAKTEN-SexuelleGewalt\\_INFO\\_Stand9-2018.pdf](http://frauenberatung.at/images/Aktuelle_Version_ZAHLENundFAKTEN-SexuelleGewalt_INFO_Stand9-2018.pdf).

24 Cf. Volbert, 2009, meta analysis.

25 Cf. Beclin, 2008.

26 Cf. Expert voice, Mag. Hedwig Wölfl on [Gewaltinfo.at](https://www.gewaltinfo.at/themen/2017_03/sexueller-missbrauch-an-kindern.php), [https://www.gewaltinfo.at/themen/2017\\_03/sexueller-missbrauch-an-kindern.php](https://www.gewaltinfo.at/themen/2017_03/sexueller-missbrauch-an-kindern.php).

## Recommendations

- 1) Raising awareness and further training, especially for professional groups and volunteers working with children, such as pedagogues in kindergartens and schools, but also in the areas of leisure and sport, to sensitise and deal with (suspected) cases and those affected, as well as to expand the range of support and counselling services offered in suspected cases.
- 2) Training of professional groups and volunteers working with children as well as parent education on the topic of modern sexual education appropriate to the age of the child, which is an important prevention tool. A self-confident child who is well informed about himself or herself and his or her body can better recognize and name if someone comes too close to him or her or becomes sexually abusive.
- 3) Expansion of child-specific counselling and therapy services for affected children, (prevalence) studies on sexual violence in order to have up-to-date figures in addition to the statistics on complaints and convictions.
- 4) Child protection guidelines (with a clear commitment to non-violence, criteria for personnel selection, such as a comprehensive judicial record, guidelines for dealing with suspected cases, etc.) for kindergartens and schools as well as all facilities where children live or people work with children, such as supervised shared accommodation, foster parents, shuttle services for children, but also in the field of leisure education such as sports and other clubs, theatre groups or similar. The existence of a comprehensive child protection directive should be a condition for public funding.

## E.

### Neglect

Although there are only few empirical studies on this topic, it is undisputed among experts that neglect is a serious problem, especially with small children, since it usually leads to considerable developmental impairments for the victim<sup>27</sup>. In addition to physical neglect (dirty clothing, inadequate nutrition, unheated rooms, careless hygiene, lack of supervision, etc.), psychological neglect (no interest in the children, no joint activities, no time, no attendance at

school events, for example, often leaving the child alone at home) is also increasing<sup>28</sup>.

Neglect occurs in all social classes. The greatest risk factors for neglect of a child are extreme poverty, mental illness of the parents, disability as well as alcohol and drug problems, but also relationship problems, domestic violence and abuse experienced in one's own childhood. Neglect can rarely be distinguished from other experiences of violence in the family – they are usually mixed forms.

### Recommendations

- 1) Data collection on neglect. There are hardly any figures on this subject in Austria. These could be generated through separate studies or a further detailing of the annual child and youth welfare statistics (causes for the intervention of child and youth welfare are currently not collected statistically) by publishing the reasons for an intervention of child and youth welfare in the report.
- 2) Awareness raising and further training, especially for professional groups working with children, such as teachers in schools and kindergartens, but also awareness-raising measures for the public.

<sup>27</sup> Vgl. Erickson et al. 1989; Markefka & Nauck 1993.

<sup>28</sup> Vgl. Violence report 2001, Part II: Violence against children 2001 (Gewaltbericht 2001, Teil II: Gewalt gegen Kinder 2001), [https://www.gewaltinfo.at/uploads/pdf/gewaltbericht2\\_gewaltgegenkinder.pdf](https://www.gewaltinfo.at/uploads/pdf/gewaltbericht2_gewaltgegenkinder.pdf).

## Children as witnesses of domestic violence

If children witness violence against one parent by the other, this creates considerable stress for the child. In this way they themselves become victims of the violence they have experienced, as the acts of violence cause fear and isolation in the child and lead to a violation of the children's right to safety<sup>29</sup>.

Witnessing is not limited to seeing, but can also occur through hearing, thinking or feeling. This means that the children or adolescents do not have to be directly present in order to perceive or witness the acts of violence and thus witness tension, fear, intimidation, anger, physical injuries, etc. Many parents mistakenly assume that their children are not aware of what is happening because they were in another room or are already asleep.

If children are present in the conflict, they are sometimes not only passive spectators, but try to actively stop the violence against the affected parent<sup>30</sup>, others are paralyzed with fear. Often they also feel guilty because they have not intervened or because they believe they are the cause or "reason" for the violence.

Often the older children take over the care and responsibility for the younger siblings (parentification) or stay away from school to protect the threatened parent.

Here, too, there are very few figures on how many children in Austria are affected by partnership violence. According to estimates, about 50,000 to 70,000 children and adolescents are affected<sup>31</sup>.

In 2017, 18,860 victims of domestic violence were cared for by the centres for the prevention of violence/intervention centres and 8,755 offenders were prohibited from access to the home<sup>32</sup> – it can be assumed that more than half of all women affected, have children. Girls and boys affected by domestic violence show a five-fold higher rate of behavioural abnormalities, requiring treatment<sup>33</sup>. The experience of parental violence in the partnership leads to a reduction of intelligence, school performance and in the ability to concentrate. Children affected by domestic violence have a threefold increased risk of carrying out or enduring partner violence as adults. They develop more stereotypical gender roles, a more aggressive behavioural style and greater difficulties in developing positive friendship relationships in childhood, adolescence and adulthood. They are also limited in their ability to deal constructively with conflict.<sup>34</sup>

E.

## Recommendations

- 1) Raising awareness of the sometimes massive effects on child development that are caused by witnessing partner violence; even in science and scientific research, less importance is attached to witnessed violence than to personally experienced violence.**
- 2) Raising awareness of the fact that the consequences of domestic violence can often only show themselves long after the violence has ended. Against this background, there is a need to expand child-specific and child-friendly counselling services and counselling centres that have such know-how.**
- 3) The recognition of the child being a victim after witnessing domestic violence in criminal proceedings as well as child-oriented litigation support. To date, children who have witnessed domestic violence are not entitled to litigation support unless one parent dies in the course of the violence.**
- 4) Measures to reduce and eliminate risk factors that promote neglect and violence.**
- 5) Sufficient support for child protection centres, centres for the prevention of violence, women's shelters and projects to prevent violence.**

29 Vgl. Loidl, 2013.

30 Appelt, Höllriegl, & Logar, 2001.

31 Cf. Ebner Viktoria, Bachelor thesis "On the effects of witnessing domestic violence on children and adolescents." („Über die Auswirkungen der Zeugenschaft von häuslicher Gewalt auf Kinder und Jugendliche")

32 Activity Report 2017 of the Vienna Intervention Centre against Violence in the Family, <https://www.interventionsstelle-wien.at/taetigkeitsbericht-2017>.

33 Kindler, in: Kavemann/Kreyssig, p. 39.

34 Kindler/Salzgeber/Fichtner/Werner, p. 1245.



6) Coordinated cooperation of women's shelters and violence protection institutions with institutions for children (cooperation guidelines still need to be developed).

7) Police cooperation with all these institutions, including child and youth welfare, to protect children from domestic violence.

## Violence among children/youths

Violence among young people is also an urgent issue and manifests itself in different ways<sup>35</sup>:

Aggressive behaviour has many faces. Besides physical injuries and threats, the term "violence" also means social exclusion, teasing or verbal attacks. Dan Olweus, an expert in the field of violence in schools, describes violence among peers in this way: A child or adolescent is exposed to violence if he or she is repeatedly exposed to the negative actions of one or more other children or adolescents over a longer period of time. By "negative actions" Dan Olweus means intentional injury. In addition to verbal (e.g. threatening, teasing) and physical (beating, kicking, pinching, etc.) attacks, he also includes behaviour such as making faces or ignoring someone.<sup>36</sup>

In particular with physical attacks boys are more often the actors, with psychological harassment gender differences are less important.

In everyday educational life, destructive violence must not be confused with development-related and development-required quarrels and power struggles between peers of the same age. Violence is, when forces are unequally distributed. A child who is trapped in the victim role permanently, needs help.

While the problem of violence in educational institutions is usually well documented and there is a general strategy for Austria to prevent violence in Austrian schools and kindergartens<sup>37</sup>, the phenomenon of sexually assaulting or violent children and adolescents who infringe personal boundaries, is still not well recognized in Austria: Sexual violence can occur, among other things, when first experiences are made, if the situation between the young people derails. In the field of patchwork families between older

and younger "stepsiblings", sexualised violence is on the rise, even among "friends" it happens. In these cases, sexuality is no longer the issue, but the exercise of power.

In Austria, children are affected by many different forms of violence. There is a need for significantly greater awareness of children's rights and child protection in society in general, but also in all occupational groups that work with children, in parental education and in the leisure and sports sector, as well as a removal of taboos on the topic of sexual violence in society in general.

In addition to raising awareness, further training and counselling services are needed for everyone who works with children professionally or in their leisure time, assistance and counselling in suspected cases, and counselling and therapy services for those affected.

However, structural measures are also needed to combat all risk factors that make violence possible and encourage it, for example to combat poverty, which is a high risk factor for violence in the family.

In order to address all this at a political level, a national action plan regarding violence against children is needed.

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35 Cf. Study on interpersonal violence in Austria (Studie zur interpersonellen Gewalt in Österreich), 2017 by Kuratorium sicheres Österreich, 2017, <https://kuratorium-sicheres-oesterreich.at/wp-content/uploads/2017/11/Studie-Gewaltpr%C3%A4vention2017.pdf>.

36 Cf. [www.stark-ohne-gewalt.de](http://www.stark-ohne-gewalt.de).

37 Cf. Spiel, Ch./Strohmeier, D 2007.

## Recommendations

- 1) Research, professional discussion and further training on the subject of sexually infringing children and adolescents.
- 2) Developing prevention services for the area of violence in the family and in recreational education facilities.
- 3) Implementation of prevention strategies (e.g. No Blame Approach)<sup>38</sup>
- 4) Research, professional discussion and further training on the subject of sexually assaulting or violent children and adolescents.
- 5) National Action Plan regarding violence against children.

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<sup>38</sup> Cf. Beck/Blum 2016 or Olweus 2016, <https://mobbing-in-schulen.de/pages/pE4dagogische-konzepte/olweus-interventionskonzept.php>.



# F. Family environment and alternative care

(Art. 5, 18 (Par. 1-2), 9-11, 19-21, 25, 27 (Par. 4) and 39 UN-CRC)

## Child and youth welfare

### Transfer of legal competence

Children who are permanently or temporarily separated from their family environment have a constitutional right to special protection and assistance from the state. The way this protection and assistance is structured in detail, has so far been regulated in the Federal Children and Youth Services Act (B-KJHG 2013), which is intended to standardise the principles of child and youth services. The implementing legislation was drawn up at a federal-state level, which has already resulted in very large differences in the provision and quality of child and youth welfare services in the federal states. In December 2018, a constitutional amendment was adopted, which shifted the child and youth welfare agendas to the sole competency of the federal states. This results in the creation of nine different child and youth welfare systems in Austria, which gives rise to fears of further unequal treatment and a massive deterioration in child protection. The compilation of meaningful nationwide statistics, the mandatory participation of children or the establishment of independent Ombudsoffices for Children and Youths, as currently provided for by the B-KJHG, will then no longer be guaranteed. Although it is planned to draw up an Art. 15a B-VG Agreement between the Federal Government and the federal states, which would contain certain minimum standards, this is not a legal basis as

recommended by the UN Committee on the Rights of the Child and can also be terminated by all contracting parties at any time.

### Differences in quality

Even under the current legal situation, there is massive unequal treatment in the federal states in the granting of child and youth welfare services, in the quality of services, in the requirements for skilled workers and in controls. According to a report by the People's Advocate's Office in 2017, for example, six children per 1,000 minors in Upper Austria were placed in alternative care and in Carinthia 11. The size of the groups also varies immensely (from 8 children per supervised shared accommodation in Salzburg to 16 children in Burgenland), as does the staffing ratio<sup>39</sup>. The results of the evaluation of the B-KJHG 2013, which were published shortly after the competence shift, also make a clear recommendation for further harmonisation of standards and professionalization<sup>40</sup>.

### Data and monitoring

Statistics have been generated on children and youth welfare since 2015<sup>41</sup>, which are compiled annually by Statistik Austria and that implement the Committee's long-standing recommendation to generate statistical data on alternative care facilities. Even though these statistics represent an improvement to the Youth Welfare Report, which was previously compiled after

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39 Cf. Special Report on Children and their Rights in Public Institutions (Sonderbericht Kinder und ihre Rechte in öffentlichen Einrichtungen) 2017, [https://www.parlament.gv.at/PAKT/VHG/XXVI/III/III\\_00055/index.shtml](https://www.parlament.gv.at/PAKT/VHG/XXVI/III/III_00055/index.shtml).

40 Cf. <https://www.frauen-familien-jugend.bka.gv.at/familie/kinder-jugendhilfe/statistik.html>.

41 Cf. [https://www.sos-kinderdorf.at/getmedia/426bc028-8558-4fe0-80d6-9450f8add194/Forschungsbericht\\_Ruckkehr\\_Lienhart\\_Hofer\\_Kittl-Satran\\_2018.pdf](https://www.sos-kinderdorf.at/getmedia/426bc028-8558-4fe0-80d6-9450f8add194/Forschungsbericht_Ruckkehr_Lienhart_Hofer_Kittl-Satran_2018.pdf).

data collection by the federal states, there is still no qualified scientific evaluation or interpretation of the data. To date, the data collected have not been used to derive any information on the further development of child and youth welfare in Austria (e.g. requirement planning, effects, etc.).

## Prevention

Prevention still receives far too little attention in child and youth welfare services in Austria. Appropriate services such as counselling centres, school social work or early intervention are not available everywhere. A corresponding recommendation was also formulated in the evaluation of the B-KJHG in 2013.

## Working with the "system of origin"

Recent studies<sup>42</sup> prove once again how important it is to work with the "system of origin" when children and adolescents are placed in alternative care. Since "reintegration into the family" was explicitly formulated as a goal in the B-KJHG, this goal must also be combined with services and financial resources. At present, for example, care in a socio-educational institution

and simultaneous outpatient support for the family are not possible in most federal states. In addition, aftercare services are important, in order to be able to provide families with good support after the termination of alternative care.

## Unaccompanied child refugees

The laws do not explicitly make any distinction between children of Austrian descent and children of foreign descent, yet unaccompanied child refugees are treated unequally in child and youth welfare. In particular, unaccompanied child refugees aged 14 and over are not assessed concerning their needs and potentials. There are fewer therapies and educational measures offered and the daily fee for care is about 50% lower than for Austrian children. This lower daily fee leads to large group sizes (up to 50 young people in one institution) and a lower quality of care. Also, quality control by child and youth welfare is not carried out throughout the refugee institutions, which results in significantly lower child protection. The fact that this practice contradicts the UN Convention on the Rights of the Child was established in a jurisprudential report by the University of Innsbruck<sup>43</sup>.

## Recommendations

- 1) **Nationally uniform, legally binding standards that are developed on an evidence basis with the participation of experts and are regularly monitored. The aim must be to harmonise service levels and quality standards in the federal states.**
- 2) **Expansion of the federal child and youth welfare statistics and further development of child and youth welfare in Austria with the involvement of experts as well as children and adolescents.**
- 3) **Investment in the development of prevention services.**
- 4) **Available resources for working with the "origin system" from the beginning.**
- 5) **Equal treatment of unaccompanied child refugees by child and youth welfare.**

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42 Cf. [https://www.sos-kinderdorf.at/getmedia/426bc028-8558-4fe0-80d6-9450f8add194/Forschungsbericht\\_Ruckkehr\\_Lienhart\\_Hofer\\_Kittl\\_Satran\\_2018.pdf](https://www.sos-kinderdorf.at/getmedia/426bc028-8558-4fe0-80d6-9450f8add194/Forschungsbericht_Ruckkehr_Lienhart_Hofer_Kittl_Satran_2018.pdf).

43 Cf. <https://www.sos-kinderdorf.at/getmedia/64c5b396-8277-45cd-8b10-baebd73c557e/Gutachten-SOS-Kinderdorf-UMF.pdf>.

# G. Disability, basic health and social services

(Art. 6, 18 (Par. 3), 23, 24, 26, 27 (Par. 1-3) UN-CRC)

## Disability

- General information
- De-institutionalisation
- Accessibility
- Inclusive education
- Health awareness raising and data
- Child support assurance
- Family Bonus Plus
- Indexation of family allowances
- Child cost study
- Housing
- Homelessness
- Education
- Health

## Healthcare sector

- General information
- Health promotion
- Obesity
- Nicotine consumption/smoking
- Prevention in early childhood
- Mother-child pass
- Pregnancy and childbirth
- Chronic diseases
- Care for sick children at home
- Psychological problems/Mental health problems
- Palliative care for children and adolescents
- Health in all policies and participation
- Training/Curricula

## Social services/Poverty

- Child poverty in Austria
- Current developments in the minimum benefit system

## Disability

The UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities strengthen and interact with each other. The rights of children with disabilities are set out in Article 23 of the UN Convention on the Rights of the Child<sup>44</sup> and Article 7 of the UN Convention on the Rights of Persons with Disabilities<sup>45</sup>. Both Conventions focus on the welfare and dignity of the child and the support that children and young people with disabilities need, to be able to lead self-determined lives.

In order to enable children and young people with disabilities to lead a self-determined life and full social inclusion<sup>46</sup>, a change of awareness must take place in Austria. However, this **paradigm shift** away from the medical, deficit-oriented

44 Cf. [https://www.kinderhabenrechte.at/fileadmin/download/Kinderrechtskonvention\\_deutsch\\_langfassung.pdf](https://www.kinderhabenrechte.at/fileadmin/download/Kinderrechtskonvention_deutsch_langfassung.pdf).

45 Cf. <https://broschuere.service.sozialministerium.at/Home/Download?publicationId=19>.

46 Cf. CRC/C/AUT/CO/3-4 Absatz 45a.

model towards a human rights-based approach to disability has not yet taken place. The potentials and abilities of children and young people with disabilities are not the focus of attention. The classification of disability (by the Social Ministry Service) is also still based on purely medical aspects. This is also problematic because the scope of some support services depends on this classification.

The **care allowance** was introduced in 1993 to cover the care costs of children and adults with disabilities. Since then, it has lost 30% in value and cannot cover actual expenses. Efforts were made to establish uniform national standards for determining the need for long-term care with the "**Kinder-Einstufungsverordnung**" (child assessment regulation) introduced in 2016. In practice, however, children with learning difficulties continue to receive no care allowance or only a small amount, as the focus is on physical functional limitations. In addition, the assessment situation for children is not adequately designed and not all assessors are paediatricians.

**Personal assistance**, which is a prerequisite for a self-determined life of children with disabilities, is not regulated nationally, but each federal state determines the criteria for it independently. None of the federal state regulations provides for children and young people with learning difficulties to receive personal assistance. The financing of hours of personal assistance provided is also not sufficiently regulated. Only in the area of federal schools (secondary schools) are there uniform regulations for the granting of assistance for school attendance throughout Austria. However, these are linked to the need for physical care and thus exclude many children with disabilities.<sup>47</sup>

## De-institutionalisation

Austria still lacks a plan for comprehensive de-institutionalisation. Contrary to the guidelines of the UN Committee on the Rights of the Child<sup>48</sup>, many children and adolescents still live

in large institutions and not with their families. In large institutions there is a hierarchical power imbalance, so structural violence is encouraged. Through institutional care, children and young people with disabilities are at great risk of experiencing sexual, physical and psychological violence<sup>49</sup>.

Children with disabilities have the right to live with their families. According to the Federal Monitoring Committee, however, there is an increase in alternative care for children of parents with disabilities in Austria. Especially when it comes to parents with high support needs, learning difficulties or psychosocial disabilities.<sup>50</sup>

## Accessibility

Accessibility in all its dimensions is one of the prerequisites for enabling the social participation of children with disabilities<sup>51</sup>. In Austria, however, there is neither a comprehensive, inclusive concept for structural nor for communicative or social accessibility. In addition to insufficient structural accessibility of public buildings (such as schools), public areas (such as playgrounds) and transport systems, there are also deficits in the range of alternative forms of communication (such as Braille, sign language and plain language). For example, there are too few teaching materials in Braille and Austrian Sign Language (ÖGS).<sup>51</sup>

## Inclusive Education

In Austria there is no inclusive education system, but the education system is still based on the principle of integration. Inclusive education, however, is the basis for everything else: for self-determined life, health, opportunities on the labour market and life satisfaction. Contrary to the last recommendations of the UN Committee on the Rights of the Child<sup>53</sup>, the Austrian Federal Government does not plan to promote inclusive education, but to expand special-needs schools.<sup>54</sup> The interaction between children with and without disabilities and the accompanying overcoming of prejudices is

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47 Cf. <https://www.wag.or.at/persoeneiche-assistenz-pa/wer-bekommt-pa/> und [https://bildung.bmbwf.gv.at/ministerium/rs/2013\\_04.html](https://bildung.bmbwf.gv.at/ministerium/rs/2013_04.html).

48 Cf. CRC/C/AUT/CO/3-4 Absatz 45c.

49 Cf. [https://www.gewaltinfo.at/themen/2016\\_08/gewalt-an-kindern-mit-behinderungen.php](https://www.gewaltinfo.at/themen/2016_08/gewalt-an-kindern-mit-behinderungen.php).

50 Cf. Report of the Monitoring Committee to the UN CRPD Committee, [https://monitoringausschuss.at/download/berichte/MA\\_Genfbericht\\_2018\\_dt.pdf](https://monitoringausschuss.at/download/berichte/MA_Genfbericht_2018_dt.pdf).

51 Cf. CRC/C/AUT/CO/3-4 Par. 45 b and d.

52 Cf. Austrian Civil Society Report on the Implementation of the CRPD of the Austrian Disability Council (Österreichischer Zivilgesellschaftsbericht zur Umsetzung der CRPD des Österreichischen Behindertenrats), [https://www.behindertenrat.at/wp-content/uploads/2018/07/2018-07-17-Alternative-Report-Austria\\_English.pdf](https://www.behindertenrat.at/wp-content/uploads/2018/07/2018-07-17-Alternative-Report-Austria_English.pdf).

53 Cf. CRC/C/AUT/CO/3-4 Absatz 45 e.

54 Cf. ÖVP-FPO government program, [https://www.bundeskanzleramt.gv.at/documents/131008/569203/Regierungsprogramm\\_2017%E2%80%932022.pdf/b2fe3f65-5a04-47b6-913d-2fe512ff4ce6](https://www.bundeskanzleramt.gv.at/documents/131008/569203/Regierungsprogramm_2017%E2%80%932022.pdf/b2fe3f65-5a04-47b6-913d-2fe512ff4ce6).

thus made impossible. Through this separation, children and young people with disabilities also have fewer chances on the labour market – after finishing the special-needs school, the path leads to a "daily structure" in which they receive no salary but only pocket money.

## Health

According to estimates by the "Austrian League for Child and Youth Health", there is a shortage of 60,000 – 80,000 therapy places for psychological care<sup>55</sup> in the health care sector and there are also considerable bottlenecks in child and youth psychiatry, according to the People's Advocate's Office<sup>56</sup>. There are therefore too few resources available for the treatment of children

and adolescents with disabilities in the inpatient and outpatient sectors. This is the reason why in 2016 around one third (32.3%) of children and adolescents were placed in adult psychiatry.<sup>57</sup>

## Awareness raising and data

There is little statistical data on people with disabilities in general and children and young people in particular. However, valid, accessible, statistical data would make the discrimination against children and young people with disabilities visible and underpin the need for policy action. They would also promote the urgent need to raise awareness of the needs of children and young people with disabilities.

## Recommendations

- 1) The Austrian school laws (SchPflG., SchOG, SchUG) should contain inclusive education in the sense of the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities.
- 2) All children and adolescents with disabilities, including those with intellectual disabilities, must receive personal assistance of the number of hours that covers their actual needs.
- 3) The existence of concepts for the protection against violence must be a prerequisite for the receipt of public funding in institutions for children and young people with disabilities.
- 4) Measures to protect children and young people with disabilities from physical, psychological and sexual assault in institutions, by care staff and/or by older residents, must be taken urgently.
- 5) Measures must be taken to implement sign language (ÖGS) as a language of instruction.
- 6) More child-friendly rehabilitation facilities for children and young people with disabilities must be established in all Austrian provinces.

## G.

### Health care system

In Austria, a great deal of awareness has been raised in recent years with regard to child and youth health. This can be seen in target no. 6 of the Austrian health targets "Healthy growing up for all children and adolescents in the best possible way", in the children and youth health strategy of the Federal Ministry and in the "Strategy 2020 on child and youth health" of the Main Association of Social Insurance Institu-

tions, which is to be seen as a reaction to the many years of joint efforts of many stakeholders.

Theoretical basis of health care for children and young people in Austria are among others:

- Health targets Austria<sup>58</sup>, especially the goal "Healthy growing up for children and adolescents in the best possible way"
- Children and youth health strategy<sup>59</sup>

55 Cf. <http://volksanwaltschaft.gv.at/downloads/3ge1p/Parlamentsbericht%202017%20-%20Präventive%20Menschenrechts-kontrolle.pdf>.

56 Cf. <http://volksanwaltschaft.gv.at/downloads/3ge1p/Parlamentsbericht%202017%20-%20Präventive%20Menschenrechts-kontrolle.pdf>.

57 Cf. *ibidem*.

58 Cf. <https://gesundheitsziele-oesterreich.at>.

59 Cf. [https://www.bmgf.gv.at/home/Gesundheit/Kinder\\_und\\_Jugendgesundheit/Kinder\\_und\\_Jugendgesundheitsstrategie/](https://www.bmgf.gv.at/home/Gesundheit/Kinder_und_Jugendgesundheit/Kinder_und_Jugendgesundheitsstrategie/).

In the case of acute illness or serious illnesses, children and adolescents in Austria usually receive very good and inexpensive or free treatment, especially in a hospital context. However, in the practitioners /extramural area we are increasingly observing a two-class of medical care: In Austria there is a rapid development towards more and more semi-private and private physicians, also in the field of children and youths: strict working hours with minimum opening hours, low financial compensation from the social insurance funds, therefore many patients and little time for treatment make working as a statutory health insurance doctor unattractive.

Furthermore, child-specific content has been massively reduced, especially in the medical and care curricula. The situation is also often very difficult for chronic illnesses in childhood and adolescence or for children and adolescents with disabilities. Additional therapies or expensive health aids are often hardly affordable. There is still room for improvement in the area of equal opportunities and inclusion, as well as in the neglected area of health prevention. Since the new federal government took office in December 2017, the topic of child and youth health care has received little public interest. At the time of writing, there was little communication with the responsible politicians. The opinions of experts from the occupational fields were not heard or were not relevant for decision-making.

## Health promotion

Young people in Austria are smoking less and less. Overall, the rate among 11 to 15-year-old smokers in Austria has fallen by about half over the last 20 years from 20.8% to 11.3%. This trend can also be observed internationally. Alcohol consumption is also falling (in 2002, 19% had drunk alcohol at least once a week, whereas in 2014 the figure was less than half, namely 9.4%).<sup>60</sup>

On the other hand, the increasing number of girls who feel overweight and therefore diet is alarming<sup>61</sup>.

It is incomprehensible that the clear commitment to a healthy diet and more exercise (NAP.e,

NAP.b)<sup>62</sup> is so neglected in terms of infrastructure (design of open space for exercise in urban areas), educational plans and food supply in the living environments of children and adolescents (for example, in schools there are still vending machines for soft drinks or snack dispensers).

## Overweight (obesity)

According to data from the first WHO data collection in Austria under the Childhood Obesity Surveillance Initiative (COSI)<sup>63</sup>, one in three 8 to 9 year-olds in Austrian primary schools is overweight. Causes, such as low vegetable consumption, convenience food<sup>64</sup> and a lack of space for exercise for children and adolescents are associated with excessive weight.

## Nicotine consumption/smoking

The health consequences of passive smoking are especially dramatic for children. The political decision not to introduce a general ban on smoking in restaurants in May 2018 is in stark contrast to the preventive approach to health promotion<sup>65</sup>.

A general ban on smoking in public places also means a positive change in the smoking behaviour of adults in the long term, from which children benefit.

## Prevention in early childhood

In Austria, public health expenditure is roughly in line with the OECD average<sup>66</sup>. In the government programme, too, policymakers are committed to prevention and health promotion – although no concrete steps towards this were discernible in 2018.

## Mother-child pass

The new mother-child pass will include extended laboratory tests for pregnant women and increased early psychological diagnostics for children. "Psychosocial factors" will also receive more attention. This should serve the early support of babies but also the recognition of risk factors (violence, neglect, etc.) in families.

60 Cf. [https://www.sozialministerium.at/cms/site/attachments/9/7/0/CH4154/CMS1427118828092/hbsc\\_2014\\_factsheet\\_rauchen\\_alkohol\\_cannabis.pdf](https://www.sozialministerium.at/cms/site/attachments/9/7/0/CH4154/CMS1427118828092/hbsc_2014_factsheet_rauchen_alkohol_cannabis.pdf).

61 Cf. Health Behaviour in School-aged Children, HBSC-study 2016, [www.hbsc.org](http://www.hbsc.org).

62 Cf. Winkler, P.; Kern, D.; Delcour, J. (2017): Children and youth health strategy (Kinder- und Jugendgesundheitsstrategie) 2016. Vienna.

63 Cf. [https://www.bmgf.gv.at/cms/home/attachments/8/3/3/CH1048/CMS1509621215790/cosi\\_2017\\_20171019.pdf](https://www.bmgf.gv.at/cms/home/attachments/8/3/3/CH1048/CMS1509621215790/cosi_2017_20171019.pdf).

64 Cf. [https://www.bmgf.gv.at/cms/home/attachments/9/5/0/CH1048/CMS1509620926290/erna\\_hrungsbericht2017\\_web\\_20171018.pdf](https://www.bmgf.gv.at/cms/home/attachments/9/5/0/CH1048/CMS1509620926290/erna_hrungsbericht2017_web_20171018.pdf).

65 Cf. [http://www.vivid.at/uploads/Tabak/Gesundheitsfolgenabschätzung\\_Tabak\\_Rauchverbot\\_TNRSG\\_2018.pdf](http://www.vivid.at/uploads/Tabak/Gesundheitsfolgenabschätzung_Tabak_Rauchverbot_TNRSG_2018.pdf).

66 Cf. <https://www.oecd.org/austria/Health-at-a-Glance-2015-Key-Findings-AUSTRIA-In-German.pdf>.



An announcement by the Federal Ministry of Health gives cause for concern: the examinations should be carried out by general practitioners as well as paediatricians. Here it is assumed that this statement is due to the lack of paediatricians throughout Austria. Studies show that children are much better cared for if they are cared for by a paediatrician.

### Pregnancy and birth

In Austria, the Caesarean section rate is 30%, twice the rate recommended by the WHO. The number of statutory health insurance midwives in Austria is far below the comparable average for Germany, for example.

### Chronic diseases

In Austria, about 190,000 children and adolescents live with chronic diseases. According to the results of ATHIS 2014<sup>67</sup>, 19% of children for whom one parent answered "yes" to one of the questions on health restrictions did not receive the necessary treatment or counselling (about 44,900 children). The official liability of teachers has been newly regulated by law<sup>68</sup> and teachers no longer have to be afraid of wrong behaviour when dealing with chronically ill pupils. However, the extent of inclusion is still based on the voluntariness and commitment of individuals or management in educational institutions.

It is still difficult for these children to be included in kindergarten, school or leisure activities. They experience exclusion from social participation (participation in ski courses, sports activities, excursions) as well as disadvantages in everyday school life and the assessment of their performance.

School physicians are only little involved in everyday school life, and there are no nurses with child and youth expertise at school. School social work is not regulated on a national basis and the presence of school psychologists on site is far from meeting the needs reported by many schools.

### Care for sick children at home

In Austria, it is becoming increasingly difficult for families to care for sick children at home. Often parents do not have the opportunity to take advantage of the statutory care-leave. The two weeks of care-leave are sometimes used up prematurely. Although there is a large care gap here and the need for care at home is constantly increasing, there are too few service providers<sup>69</sup> who offer this service. More and more children have to go to kindergarten or school ill. Children have a right to sick leave.

### Psychological problems / mental health problems

In Austria, about 20% of young people are burdened by psychological problems<sup>70</sup>. Very often anxiety disorders, depressive symptoms, self-injury, eating disorders or attention difficulties are not noticed. In addition, 15-year-olds experience increased performance pressure<sup>71</sup>. Low socio-economic status and poverty lead to an increased risk of mental illness<sup>72</sup>.

The prevalence of bullying (14.7% of respondents reported bullying) is still relatively high by international standards (average is at 11%). Austria is at the negative end of the ranking in all age groups.

### Palliative care for children and adolescents

According to estimates by the umbrella organisation Hospiz Österreich<sup>73</sup>, around 5,000 children, adolescents and young adults suffer from a life-shortening illness. Nationwide, 22 specialised facilities are available for these children. In order to be able to provide the necessary support for children and young people and their families in their seriously ill or even last phase of life, their services must not only depend on donations, but must also be financially secured.

### Health in all policies and participation

Children and adolescents in Austria currently have very little say in their health care, little influence and too little knowledge for parti-

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67 Cf. Austrian Health Interview Survey 2014, main results of the Austrian Health Interview Survey (ATHIS) and methodological documentation.  
68 Cf. [www.jusline.at/gesetz/aerzteg/paragraf/50a](http://www.jusline.at/gesetz/aerzteg/paragraf/50a).

69 Cf. <http://www.wienersozialdienste.at/unsere-dienstleistungen/sozialdienste/kinderbetreuung-daheim.html>; <https://www.tagesmuetter.co.at/betreuung/betreuung-fuer-krank-kinder/>; [www.notfallmama.or.at](http://www.notfallmama.or.at); [www.kib.or.at](http://www.kib.or.at).

70 Cf. Mental Health in Austrian Teenagers, Wagner et al 2017.

71 Cf. Health Behaviour in School-aged Children, HBSC-study 2016, [www.hbsc.org](http://www.hbsc.org).

72 Cf. Wickham, S./Barr, B./Taylor-Robinson, D. (2016). Impact of moving into poverty on maternal and child mental health: longitudinal analysis of the Millennium Cohort Study. LANCET, 388, 4.

73 Cf. [www.hospiz.at](http://www.hospiz.at).

icipatory decision-making (see also chapter on Participation).

## Training/Curricula

In general medical education, the area of paediatrics and adolescent medicine was shortened to three months. There are also massive cuts

in paediatric nursing<sup>74</sup>: there is no longer a single specialist area in which the specialisation "paediatric and adolescent nursing" is required. Specialist positions for paediatrics and adolescent medicine can hardly be filled, especially in rural areas. General practitioners, who partly cover the shortage, have very little expertise in the field of paediatrics.

## Recommendations

- 1) Free vegetables in kindergartens, schools and afternoon care
- 2) Open spaces for movement and time for movement (gyms in schools, playgrounds)
- 3) Introduction of a smoking ban in gastronomy and public buildings: wherever children spend time
- 4) Sustainable anchoring and financial securing of "Early Intervention" throughout Austria
- 5) Following the recommendations of the mother-child pass experts
- 6) Increase of the number of statutory health insurance midwives
- 7) Expansion and nationwide uniform presence and regulations for support of schools by school nurses
- 8) Mobile paediatric care
- 9) Multi-professional school health teams
- 10) Expansion of school social work and school psychology
- 11) Availability of a network of affordable service providers to parents for the care of sick children at home
- 12) Cost-effective or free psychological and psychotherapeutic services throughout Austria for all children and adolescents
- 13) Increased efforts in the field of mental stress prevention
- 14) Financial securing for palliative care (domestic, day-care, stationary)
- 15) Participation of children and adolescents in development and decision-making processes, especially in health care matters.
- 16) Implementation of the EACH-Charter (European Association for Children in Hospital)<sup>76</sup> also in Austria
- 17) Anchoring child- and youth-specific content in curricula

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74 Cf. <http://www.kinderkrankenpflege.at/home>.

75 Cf. [www.fruehehilfen.at](http://www.fruehehilfen.at).

76 Cf. <https://www.kib.or.at/each/>.



## Social services / poverty

### Child poverty in Austria

Currently, around 324,000 children and adolescents in Austria are at risk of poverty. They experience poverty in various areas, be it education, housing, health, clothing, food or social life. Poverty does not only mean monetary poverty and exclusion, but also restrictions in daily life and simple basic needs. Even in a rich country like Austria, about 54,000 children currently have to do without a nutritious meal, 118,000 cannot go on holiday. 180,000 children live in households that cannot cope with unexpected expenses. Poverty deprives children of their opportunities to partake and to social participation and has an impact on all aspects of the lives of children and young people.<sup>77</sup>

Even though the State Report notes a promising trend towards a continuous decline in child poverty in Austria (Par. 213 of the State Report), individual aspects and above all recent developments in the Austrian social system must not be ignored.

### Current developments in the needs-oriented minimum benefit system (Mindestsicherung)

In 2010, the needs-oriented minimum benefit system (BMS) replaced open social welfare<sup>78</sup>; the relevant Art. 15a-Agreement came into force on 01.12.2010. The idea behind this was to standardize (and partially increase) the minimum standards that had been in force until then and to improve coordination between the Federal Government and the federal states. Since 1.1.2017, there has been no nationwide agreement on a needs-based minimum benefit. The benefits are therefore regulated differently from federal state to federal state. The current draft law of the Austrian Federal Government intends to change this and provides for a basic federal legislation<sup>79</sup> on social welfare, which is to apply from 1<sup>st</sup> April 2019. The federal states will then have another six months to enact the corresponding federal-state laws for implementation. The basic legislation is to lay down objectives,

eligibility requirements and reference groups as well as the obligation to provide control systems and transmit data – the way in which these requirements are to be specifically formulated is left to the discretion of the federal states. With regard to child poverty, however, the strong degressive gradation of the benefits for children is particularly disconcerting: the benefit of currently around 863 Euros for a single person is regarded as the maximum amount; children are assigned percentages depending on the number of children. For the first child, this results in a benefit amount of around 215 Euros per month, for the second child 130 Euros per month, from the third child onwards only 43 Euros per month would be provided. Although the draft law proposes an "equal" distribution among all children, that does not increase the total amount of child-related benefits. In particular for multi-child families, which are already affected by an increased risk of poverty, it is to be assumed that less financial resources are available per month for the children. Evaluations by Statistik Austria with regard to the living conditions of children in the minimum benefit system, however, already show cuts in children's everyday lives<sup>80</sup>: more than half (53%) of the children in the minimum benefit system have to live in overcrowded flats (overall this is only true for 6% of the children), almost every third child (29%) cannot afford new clothing and almost every fifth child (19%) cannot take part in school activities or school trips. Although the draft law contains proposals for additional benefit levels for single parents and their children, these are only "optional benefits" which the federal states can provide or not.

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77 Cf. Statistik Austria (2018): Table volume EU SILC 2017: Income, poverty, living conditions. (Tabellenband EU SILC 2017: Einkommen, Armut, Lebensbedingungen).

78 Open social welfare goes to private households and mainly includes benefits to secure a living. It is regulated within the framework of the minimum social benefit laws. Institutionalized or inpatient social welfare provides support in reimbursing the costs of accommodation in old people's and nursing homes.

79 Cf. [https://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME\\_00104/index.shtml](https://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00104/index.shtml).

80 Cf. Statistik Austria: Living conditions of recipients of minimum income support (special evaluation), 2018 b, summary (Lebensbedingungen von Beziehenden der Mindestsicherung (Sonderauswertung), 2018 b, Zusammenfassung), <http://www.armutskonferenz.at/news/news-2018/lebensbedingungen-menschen-mindestsicherung.html>.

## Recommendations

### Coverage for all children

- 1) Uniform minimum standards nationwide to secure a minimum standard of living. Ensuring that children's needs are met by means of uniform, needs-based child benefits throughout Austria, without differentiation according to age or number of children, in order to counter child poverty.
- 2) No exclusion of groups of children from social welfare.
- 3) Priority shall be given to the best interests of the child in all measures affecting children.

### Child support

According to the figures from EU-SILC 2017, about 47% of single-parent households in Austria are at risk of poverty or exclusion. This makes children and young people from single-parent households among the most vulnerable groups in terms of poverty and social exclusion. Although children of separated parents are entitled to child support, it is not always provided. The advance payment by the state on child support is also not guaranteed in all situations. A survey carried out by the Austri-

an Platform for Single Parents in 2013 showed that about 50% of all children from separated parents receive no or too little or irregular child support payments<sup>81</sup>.

The reform of child support could be an effective means of combating child poverty and of ensuring more equal opportunities. The aim must be to ensure that every child's standard of living is adequate. All children, regardless of their and / or their parents' status, should receive child support.<sup>82</sup>

## Recommendations

### Assurance of child support

- 1) by eliminating the exceptions in the advance payment by the state on child support: Entitlement for children also in cases in which the parent liable for child support is, for example, unable to pay benefits, is unknown, is deceased or with unknown residency.
- 2) through immediate advance payments by the state in the case of child support arrears.
- 3) by linking the period for which the advance on child support payments can be claimed to family allowances instead of age of minority.
- 4) by a guaranteed minimum child support at a sufficient level (standard requirement rates which are recalculated on the basis of an updated child cost study).

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81 Cf. <https://www.alleinerziehende.org/images/downloads/journal/WEGDoppelseiten.pdf>.

82 Cf. [https://www.kija.at/images/Unterhaltssicherung\\_25733.pdf](https://www.kija.at/images/Unterhaltssicherung_25733.pdf).

## Family Bonus Plus

With the introduction of the Family Bonus Plus in Art. 33 Par. 3a of the Income Tax Act (EStG), children are treated differently on the basis of their parents' income. This clearly contradicts the prohibition of discrimination in Article 2 of the UN Convention on the Rights of the Child.

The Ombudsoffices for Children and Youths in Austria (KIJAS) are of the opinion that bringing up children is one of the most important tasks in a social structure and must be valued accordingly – also financially. "The state must therefore create better framework conditions for all children so that each child can develop in the best possible way according to its individual needs and abilities".<sup>83</sup>

The family bonus is a tax deduction of 1,500 Euros per child per year, which is paid out up to the child's 18th birthday. The costs for this amount to at least 1.5 billion Euros annually. In some respects this tax benefit is very problematic in terms of distribution policy, because families with a very low income and those who depend on social benefits – for example due to unemployment – receive nothing. This means that families at risk of poverty are excluded from the new benefit.

Single-parent households are particularly at risk of poverty. After criticism, some improvements were made here and a negative tax of 250 euros per year was introduced (if there is no sufficient tax benefit for the bonus) – but that is only one sixth of the actual bonus.

In addition, the tax benefit fails regarding equality policy: according to a simulation by the European Centre for Welfare Research, 76% of men will benefit from it.<sup>84</sup> This in turn has a direct retroactive effect on the poverty risk of households, because households with a high employment rate have a significantly lower risk of slipping into poverty.

The family bonus thus makes no contribution to reducing child poverty, does not make it easier to reconcile family and work and does not provide any positive incentives for a division of labour based in partnerships. With the funds spent on this, the family allowance per child could have been increased by 860 Euros per year (= 72 euros per month), which would have benefited all children. Even more effective, however, would have been the investment of the funds in childcare and education, which would have made it possible to expand the system nationwide with good opening hours and little or no parental contributions. An increase of 1.5 billion in this area would have been an increase of 60% (currently 2.5 billion/year).

## Recommendations

### Family Bonus Plus

- 1) Evaluation of the law after about 2 years on the accuracy of the intended objectives; assessment of the effects of this law on groups of people at risk of poverty, in particular children and young people.
- 2) Increase expenditure in Austria to the EU-average of 1% of GDP. That would be an increase of 1.2 billion per year. Currently Austria is at 0.67% of GDP<sup>85</sup>.

### Indexation of family allowances

From 1 January 2019, the family allowance for Union citizens who are gainfully employed in Austria and whose children live in another EU member state will be adjusted to the purchas-

ing power of the country of residence. For many workers from member states with low price levels, this means a reduction, and for those whose children live in a residential state with a high price level, a higher family allowance than would be paid in Austria. According to a broad

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83 Opinion of the Ombudsoffices for Children and Youths on the Family Bonus Plus in the context of the amendment of the Income Tax Act 1988, [https://www.kija.at/images/Stellungnahme%20der%20kijas%20zur%20%C3%84nderung%20des%20EStG%201988%20April%202018\\_45cb1.pdf](https://www.kija.at/images/Stellungnahme%20der%20kijas%20zur%20%C3%84nderung%20des%20EStG%201988%20April%202018_45cb1.pdf).

84 Cf. European Centre for Social Welfare Policy and Research (Euromod/Soresi) Assumption: Tax optimization of households. (Annahme: Steueroptimierung der Haushalte)

85 Cf. OECD Family Data Base 2013.

assessment, this new regulation violates Union law in many respects. Within the EU, freedom of establishment is regarded as one of the four fundamental freedoms of the EU Member States. Freedom of establishment allows workers to settle and take up work within the territory of the EU. Union citizens may not be treated differently from nationals of the state of employment in the member states in which they work in regards to wages, working conditions and related social benefits. The principle of equal pay applies to the same work in the same place – and this also applies to contributions and allowances. Family benefits are the responsibility of the state in which the work is carried out, which contributes to economic resources, taxes and social security. If the parents work in different member states, the state in which the child lives is primarily responsible. In this case, however, the state with the higher family benefit has to pay a difference to its benefit level. There is also a strict ban on discrimination, which is laid down several times at the level of Union law (e.g. TFEU, coordination rules VO 883/2004). This principle of equal treatment also applies unequivocally to children, as if they were living in the relevant state of employment. Union citizens who are employed in Austria contribute in the same way and at the same level as

Austrian citizens to economic income, taxes and social security contributions. This also applies to the Family Allowance Fund (FLAF), from which the family allowance is financed. Contributions to the FLAF are calculated by the employers from the total wage amount of companies and paid to the FLAF as a levy. Neither is a differentiation made according to the place of residence nor according to the nationality of the employees' children. This project is estimated to save 114 million Euros per year. The total amount of family allowances in 2017 was 3.419 billion Euros. The expected savings rate thus amounts to 3.3% of the total revenue spent on family allowances. The expenditure on family allowances for Union citizens is a relatively low amount compared to the total income. This law, which has now been passed at national level, is in conflict with the laws at European level, which have priority in application and, according to many assessments, will not be able to exist before the European Court of Justice. The family allowance can, however, lay the foundation for a better life for children in member states where child poverty prevails, for example by enabling them to receive a good education. This will contribute to the cohesion and prosperity of the EU, also in the interests of employees.

Total Family Allowance 2017	€ 3.419 billion	100,00 %
Of which paid out to Union citizens in 2017	€ 185,55 billion	5,42 %
Expected savings	€ 144 billion	3,3 %
Source: Materials on the draft law /Statistik Austria		

It should be noted that **429,108** Austrian nationals live in the various EU/EEA countries, most of them in employment status (2016) – for example in Germany, Switzerland, Ireland and Norway. In comparison, **425,847** EU/EEA and Swiss citizens were in employment in Austria in 2017. The purpose of the EU is put in question, if each state interpreted the European treaties for its own benefit and indexed them according to the purchasing power of other states.

### Child cost study

Fact-oriented policy needs empirical foundations on the basis of which policy options can be examined and discussed. The data on costs that families have to pay for their children are still missing in Austria. Although standard requirement rates (Regelbedarfssätze) have been established, which determine a certain requirement level for children depending on their age group, there is still a lack of information on the costs that families have to pay for their children.

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83 Stellungnahme der Kinder- und Jugendanwaltschaften zum Familienbonus Plus im Rahmen der Änderung des Einkommensteuer-gesetzes 1988, [https://www.kija.at/images/Stellungnahme%20der%20kijas%20zur%20%C3%84nderung%20des%20EStG%201988%20April%202018\\_45cb1.pdf](https://www.kija.at/images/Stellungnahme%20der%20kijas%20zur%20%C3%84nderung%20des%20EStG%201988%20April%202018_45cb1.pdf).

84 Vgl. European Centre for Social Welfare Policy and Research (Euromod/Soresi) Annahme: Steueroptimierung der Haushalte.

85 Vgl. OECD Family Data Base 2013.

However, these values can be traced back to a survey in 1964. They are adjusted annually to the consumer price index, but the underlying calculations have remained unchanged for more than 50 years.

Since then, however, a great deal has changed. While the cost of clothing has fallen, other expenditure, such as rent, has risen sharply. But it is not only the level of individual components that has changed; the shopping basket as a whole has also changed completely. Accordingly, the expenditure structure of households

with children is in no way comparable to that of more than half a century ago.

Nevertheless, family law and family policy measures refer to the standard requirement rates in different ways, for example in child support law or in family support. This is an untenable situation. It is urgently necessary to record the financial situation of families currently and on a statistically reliable basis. There is an urgent need to calculate the current costs of children so that Austrian policy on children and families can again be based on factually sound foundations.

## Recommendations

### Social security for all children

- 1) **by preparing a child cost study according to current assessment criteria as a basis for all further calculations.**
- 2) **by introducing a nationwide universal, income-dependent basic child benefit system that enables social security and effectively combats child poverty.**

## Housing

For children to grow up, sufficient material provision is necessary, which includes sufficient food and clothing as well as adequate housing. Especially in the area of housing and energy, however, costs have risen sharply in recent years and are a burden particularly on low-income households. Especially for families with several children and a low income, it is becoming increasingly difficult to find affordable housing.

Children and young people from families at risk of poverty are more likely to live in rented accommodation than in properties or houses. 111,000 children and adolescents (up to the age of 19) live in overcrowded households. Due

to the cramped living space, they are often unable to invite friends. 76,000 children cannot afford to invite friends or relatives at least once a month. 26,000 children and adolescents up to the age of 19 live in households that cannot be heated adequately in winter. The housing situation can lead to health problems, such as mould or strong humidity in the rooms – 69,000 children and young people are affected. But environmental stress such as noise, air pollution and environmental pollution also reduce the quality of living. Children and adolescents from families at risk of poverty are more likely to live in overcrowded, dark and damp flats, some of which lack heating or bathrooms. Their homes are poorly equipped, with no telephone, computer or washing machine, for example.<sup>86</sup>

## Recommendations

### Housing

- 1) **Checking and ensuring that living conditions are mould free and heated.**

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86 Cf. Statistik Austria (2018): Table volume EU SILC 2017: Income, poverty, living conditions.

## Homelessness

Austria is the fourth richest country in the EU, but children and young people in Austria are also threatened by homelessness. Previous discontinuation or cancellation of benefits are repeatedly observed with families who slide into homelessness.

According to the annual report of the emergency sleep centre *a\_way* (2017), for example, an increase can also be noted of cases of homeless youths or youths threatened by homelessness. Last year, for example, 603 people took advan-

tage of services, a total of 2970 overnight stays were counted, which represents an increase of almost 20 percent compared to 2015. Of these, 461 were male and 142 female. Young women are more likely than young boys to have overnight accommodation with friends, which naturally puts them in dependencies and very precarious housing situations. The emergency sleeping place is mainly used as an emergency accommodation, 82% do not stay longer than five nights at a time. Although there is a need for longer term accommodation, accommodation in shared rooms and increased occupancy are often obstacles.

## Recommendations

- 1) **Developing a differentiated range of social housing facilities for different affected groups as well as secure financial support for existing housing facilities with a focus on rural areas and low-threshold facilities for young people.**
- 2) **Promoting access to affordable housing and care tailored to needs in order to facilitate the transition from homeless assistance facilities to independent housing (e.g. Housing First model).**
- 3) **Expansion of preventive services such as prevention of eviction, outreach work and reintegration assistance.**

## Education

There are many proven links between the income situation in the household and the educational opportunities of children and young people. The educational level in Austria still depends strongly on the educational level of the parents. According to the OECD report "Education at a glance 2018"<sup>87</sup>, performance in Austria is more dependent on socio-economic background than the OECD average, children from educationally

disadvantaged backgrounds are less likely to achieve a university degree.

The course for the educational future is already set in childhood. Poverty also increases the risk of young people dropping out of school prematurely. Conversely, education is often cited as a central criterion for overcoming poverty, which is why it is essential that structural disadvantages and selection in the school system are eliminated as far as possible (see also chapter Education).<sup>88</sup>

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## Recommendations

### Ensure quality education for everyone

- 1) **by introducing a modern education system: including schools with a focus on internal differentiation and individualisation, increased promotion and equal opportunities instead of deficit orientation and selection at the age of 10.**
- 2) **by expanding all-day school forms for children and young people with free leisure and learning opportunities instead of expensive extra tuition.**

87 Cf. OECD: <https://www.oecd-ilibrary.org/docserver/60018211w.pdf?expires=1543413089&id=id&accname=guest&checksum=9EB-BE8912927E659D57F5DAFF3605396>.

88 Cf. Fenninger/Wade/Ranftler, Volkshilfe: "What kids need. Every child has a chance." 2018 („Was Kinder brauchen. Jedem Kind alle Chancen.“).

## Health

The income situation of parents also has a considerable influence on the health situation of children and adolescents. Growing up in poverty or below the poverty line massively increases the probability of illness – both mental and physical.

"The poor children of today are the chronically ill of tomorrow"<sup>89</sup>. They are twice as ill, have up to 70% more accidents and are inhibited in their physical, emotional, mental and social development. Apart from this, they are more likely to have psychosomatic impairments such as sleep and concentration disorders (see also chapter on Health).<sup>90</sup>

## Recommendations

### Promotion of physical and psychological health

- 1) **by focusing on a school that promotes physical activity and health: investing in green areas, exercise opportunities and healthy nutrition in schools. Expansion of the services of social workers, psychologists and mediators.**
- 2) **through sufficient, free diagnostic-therapeutic services for all children with developmental disorders and illnesses.**
- 3) **through social awareness work, the aims of which are the removal of taboos from poverty and the reduction of prejudices.**
- 4) **by ensuring a healthy diet for children at risk of poverty.**

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<sup>89</sup> Schenk, Martin: Child health and poverty. Data, connections, causes (Kindergesundheit und Armut. Daten, Zusammenhänge, Ursachen). p. 45.  
<sup>90</sup> Cf. Bundes Jugend Vertretung: Position paper "Against poverty and social exclusion of children and young people." ("Gegen Armut und soziale Ausgrenzung von Kindern und Jugendlichen.")



# H. Education, leisure and cultural activities

## (Art. 28, 29 and 31 UN-CRC)

### Education and training

According to the Concluding Remarks of the Committee on the Rights of the Child, the following deficits with regard to the realisation of children's rights in the field of education were last pointed out to Austria in 2012:

- Affordable and comprehensive access to early childhood care and pre-school education must be ensured (Par. 53);
- Children's rights must be explicitly stated in the curricula of primary and secondary schools (Par. 20);
- Children with a migrant background must not be disadvantaged in the education system. This is associated with the development of a comprehensive strategy and legislation for an integrative education (Par. 52);
- Systematic training in the area of children's rights is recommended for all occupational groups working for and with children (Par. 22);
- It is also recommended that the general public be made aware of the rights anchored in the UN Convention on the Rights of the Child (Par. 21).

On the basis of these comments, research was carried out within the framework of the Austrian Children's Rights Board<sup>91</sup> to identify factors in socialisation that are beneficial and detrimental to personality development and to the educational careers of children in kindergarten and school.

### Affordable and comprehensive access to early childhood care and pre-school education

According to this analysis, the mandatory kindergarten year introduced in 2010 will not be implemented nationwide, as numerous exceptions or exemptions are possible. The second compulsory kindergarten year announced in the current government programme has not yet been implemented. Neither the size of the groups nor the staffing ratios are regulated uniformly throughout Austria. There are too few early childhood education institutions for children under three years of age and far too little support for children with special needs (e.g. pick-up service for children in rural, remote regions, additional language support). The qualifications of specialist staff are far below the European average. It is noticeable, that communication with children who have learned German as their first language is more frequent. The "Education Compass" adopted in 2015 (annual assessment of competencies and funding requirements from the age of three and a half years to the end of compulsory schooling) has not yet been implemented nationwide. It has not been clarified how the associated additional funding will be secured or financed in the future. The current State Report mentions: (Par. 217 of the State Report) *"the necessary pedagogical recommendations on the basis of the Education Compass, which are communicated orally to parents, provide an important basis for the further development of education"*. A pilot test of the Education Compass in 50 kindergarten groups in Upper Austria in 2018 revealed, among other things, that this would lead to increased qualification requirements.

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<sup>91</sup> Cf. <https://www.kinderrechte.gv.at/kinderrechte-in-osterreich/>. For these remarks, see the project reports of the project group of the Children's Rights Board dealing with the subject area of education. Schrittmesser, I./Berger, E./Breinbauer, I.M./Schober, B. (2014 – 2018). Kinderrechte: Sozialisation in Familie, Kindergarten und Schule. [Children's Rights: Socialisation in the Family, Kindergarten and School]. Federal Ministry for Family and Youth, Vienna.

## Recommendations

- 1) Consistent implementation of the two compulsory kindergarten years
- 2) Increased educational opportunities for children under three years of age
- 3) Targeted support for all children with special needs or in accordance with the recommendations of the Education Compass, including increased language support for children who are not native German speakers. This support must not be left to the parents alone and must be affordable for them.
- 4) Transfer of elementary education into federal competence, smaller groups and university education for pedagogues
- 5) Substantial anchoring of children's and human rights in early childhood education (e.g. gender equality, prohibition of violence); appropriate training and further education of pedagogues

### Children's rights in primary and secondary school curricula

Children's rights are not explicitly mentioned in the Interstate Education Framework Plan ("Bundesländerübergreifender Bildungsrahmenplan") and are not sufficiently taken into account in the current curricula, especially at primary and sec-

ondary level. The current revision of the curricula should be used in an interdisciplinary manner to systematically consider children's rights and the educational content of the "Sustainable Development Goal 4.7" (SDG 4.7.), to which Austria has committed itself. The results of a current project on certification as a "children's rights friendly school" should be taken into account.

## Recommendations

- 1) Explicit, cross-curricular consideration of children's rights and the contents of SDG 4.7. in all curricula and in compulsory teaching content for all school levels (not only in civic education; for example, violence prevention in religion/ethics).
- 2) Substantial inclusion in the education and further training curricula of pedagogues and development or provision of adequate educational materials.
- 3) Improving the interface between school and parents.
- 4) Improving data on children's rights and their integration into education, including improved educational and social science research.

## H.

### Discrimination in the education system for children with a migrant background [Comprehensive strategy and legislation on integrative education]

According to UNICEF's "Innocenti Report" (2018), Austria only ranks 29<sup>th</sup> out of 38 countries in the ranking of rich countries with the lowest inequality regarding reading literacy among 15-year-olds, although Austria is well ranked in terms of early childhood development. The combination of migration background, poverty and linguistic

differences in the Austrian education system still leads to serious disadvantages and exclusion effects. Children with problems receive far too little support. As experts have been criticising for years, selection for different types of school takes place far too early at the age of 10, with plans being made to further tighten the selection mechanisms in future.

There are also serious shortcomings in access to (post hoc completion of) school education and/or training for young people with a refugee

background who are no longer bound by mandatory school attendance. Existing courses, such as basic education or mandatory-school completion courses are insufficient and not accessible everywhere in all federal states. In particular, young people who live with their parents in remote basic care accommodations, have great problems taking part in courses during the asylum procedure (see also chapter on Asylum seekers and refugee children).

The integration of children with disabilities into the standard system is also inadequate, and there is a renewed tendency towards special schools (see chapter on Disability).

Already in elementary school, children are expelled far too quickly from school, sometimes because of minor "offences", whereby they lose valuable learning opportunities.

The "Obligation of being in education until 18", introduced in 2017, does not apply to young asylum seekers. While since 2012 apprenticeship training for young asylum seekers up to the age of 25 was permitted at least in occupations where there were shortages, they have not been allowed to start an apprenticeship at all since 2018 and have in many cases been deported from existing apprenticeships – without completing the apprenticeship – which in no way corresponds with the best interests of children.

## Recommendations

- 1) The selection with regard to a further school career should only take place from the age of 14, i.e. after secondary level 1, instead of currently at the age of 10, after elementary school.
- 2) Expansion of all-day schooling and care forms.
- 3) Austria-wide establishment and financing of additional school support systems for students with (sometimes multiple) problem situations.
- 4) Possibility of choosing native languages of children with a migration background as additional school subjects in class.
- 5) Children with little knowledge of German must be integrated into the regular school system as quickly as possible; separate classes such as "bridge classes" or "German support classes" must be viewed critically.
- 6) School social workers and school psychologists should be involved instead of expulsion or linking family policy cash benefits to conditions such as school attendance and language acquisition.
- 7) Austrian school laws (SchPflG, SchOG, SchUG) should include education in the sense of the UN Convention on the Rights of the Child and the UN Convention on the Rights of Persons with Disabilities.
- 8) Measures must be taken to implement Austrian Sign Language as a language of instruction.
- 9) Access to (post hoc completion of) school education and/or training for all youths with a refugee background who are no longer bound by mandatory school attendance.
- 10) Reintroducing the possibility for asylum seeking children to undertake and complete an apprenticeship.

# I. Special protection measures (Art. 22, 30, 38, 39, 40, 37 b)-d), 32–36 UN-CRC)

## Overview:

### Asylum seekers and refugee children

- Duration of proceedings and best interests of the child
- Family reunification
- Deportation
- Psychological and psychiatric care
- Accommodation of unaccompanied minor refugees
- Funding
- Arrival clearing and differentiated care services
- Accommodation for families
- Care for unaccompanied minor refugees
- Police operations
- Education and employment
- Better data on refugee children
- Accompanied child refugees
- Concerns about developments in the current federal government

### Child trafficking and sexual exploitation

- Current situation – child trafficking
- Positive development
- Negative development

### Juvenile justice system

- Current situation
- Developments during the reporting period

### Asylum seekers and refugee children

Compared to previous years, in the years 2015 and 2016 a relatively large number of refugee children (and asylum seekers in general) came to Austria and subsequently filed an application for international protection/asylum. These include children who have fled to Austria together with their parents or at least a caregiver, as well as unaccompanied child refugees and also children who have come in the course of family reunification or humanitarian reception programmes (resettlement).

The life of children in Austria is characterised by many factors, which include a multitude of child rights aspects. Of particular concern are the asylum procedure, as well as any subsequent family reunification procedure, possible alternative residence options and deportation, health care and in particular psychological/psychiatric care, education and employment, accommodation during the ongoing asylum procedure and care, in this case specifically for unaccompanied child refugees. The best interests of the child, which is also embodied in the Austrian constitution, should always take precedence in all governmental actions. Decisions of any kind in the field of asylum, however, are often lacking such consideration.

year	asylum seekers total	minors total	% minors	unaccompanied minors	of which under 14 years of age	accompanied minors	of which under 14 years of age
2014	28.035	8.480	30,24 %	1.740	120	11.140	6.740
2015	88.160	32.230	36,56 %	8.280	745	23.950	18.823
2016	42.255	17.865	42,28 %	3.900	375	13.965	12.340
2017	24.715	12.020	48,63 %	1.355	145	10.665	9.690
2018	13.400	6.656	49,67 %	488	47	6.168	5.714

Note: The data on Eurostat partly differ in the three-digit range from those communicated by the national contact.

## Duration of proceedings and best interests of the child

Long waiting times in the asylum procedure lead to unrest among young people and consequently also in the respective care centres where asylum seekers are accommodated. Uncertainty and a lack of perspective among minors also increase as a result. The Asylum Act provides for a decision-making period of 15 months. Many minors have to wait two years or even longer to be allowed to present their grounds for asylum to the Federal Office of

Foreign Affairs and Asylum within the framework of an interrogation.

Often the focus and awareness for the specific child rights aspects in the asylum procedure of accompanied children is lacking because the reason for fleeing is derived from the parents.

The best interests of the child are rarely taken into account in decisions and do not represent a systematic examination step in the asylum procedure.

## Recommendations

- 1) Priority should be given to the completion and speeding up of procedures by qualified persons for particularly vulnerable groups of children and adolescents, such as unaccompanied children seeking asylum or severely traumatised accompanied children.
- 2) The best interests of the child must be examined in all decisions in a binding manner and documented in a comprehensible way in the decision. This requires changes to the law to ensure that decisions by Austrian authorities do not cause harm to the best interests of the child (such as, for example, a humanitarian right of abode in the case of particularly good integration and the consolidation of children's residence).

## Family reunifications

The long duration of the asylum procedure often makes it impossible for children to see their family members again. When subsidiary protection is granted, there is a legal waiting period of three years until the parents of a child may apply for family reunification, provided that the child is not yet of full age at that time.

In addition to the long duration of the procedure for children, the long duration of the family reunification procedure (six to 12 months) also determines the period until reunion. The often poor living conditions of children in their coun-

try of origin or the imminent age of consent of an unaccompanied child in Austria are therefore not taken into account. Even for underage children, it is possible that they may not be able to see their parents again before they reach the age of majority.

For those children who are granted asylum in the procedure, there is a possibility of family reunification if they were children at the time the application was made, but become of age in the course of the procedure. However, the corresponding family reunification procedure is not governed by the Asylum Act, but by the Settlement and Residence Act, which makes

reunification much more expensive. Since 17th of May 2018, family reunification applications have become subject to a fee pursuant to Art. 35 Asylum Act (100 Euros per person under six years of age, 200 Euros per person over six years of age). For families with several children or unaccompanied child refugees, this is a further obstacle to family reunification.

In cases where a child has already reached the age of majority in the country of origin or in a third country, this child normally cannot join the family, even if there is increased vulnerability

and dependence on the family (e.g. disability, illness, single young woman).

Accompanied children who (unlawfully) receive a derived status (e.g. from an uncle or aunt) are often not allowed to subsequently get their parents and siblings due to the prohibition of chain extension. The persons concerned or their representatives are often not sufficiently informed about appropriate legal protection.

The right to family reunification can only be achieved for 2% of all unaccompanied child applicants.

## Recommendations

- 1) Family reunification procedures should be "benevolent, humane and expeditious" within the meaning of Article 10 of the Convention on the Rights of the Child: The three-year waiting period for family reunification should be substantially shortened for children eligible for subsidiary protection. Individual cases must be taken into account where children are concerned.
- 2) A determination of the best interests of the child must, where necessary, be carried out in a comprehensible manner and after appropriate consideration.
- 3) Consular fees for large families or unaccompanied children should be reconsidered.
- 4) In cases of hardship (e.g. adults, sick young adults), the possibility of a humanitarian visa should be considered.

## Deportation

Little is known about the deportation of children; in particular, there is a lack of data on children so that qualified statements could be made. After years of residence and intensive settling in Austria, children and their families are repeatedly torn from their environment and brought to home countries they are not familiar with. These cases usually reach the public through media coverage.

Since the last tightening of the Aliens Act, the separate deportation of family members has been permitted since September 2018. This right has already been exercised and, for example, a father of a family has been deported to his home country, while the mother and their children remained in Austria.

## Recommendations

- 1) Legal anchoring of an explicitly mandatory examination of the best interests of the child in such cases.
- 2) Any humanitarian residence opportunities should be utilized in the best interests of the child.
- 3) Children should not be separated from their parents by foreign police measures and deportations.

## Psychological and psychiatric care

The fact that child and adolescent psychiatric and psychological care in Austria cannot be regarded as sufficient in many areas, has been known for years, especially for Austrian children. The number of children seeking asylum in re-

cent years has increased the pressure to provide care. In child and juvenile psychiatric outpatient clinics, patients are discharged briefly after an initial consultation, there is an acute shortage of established child and juvenile psychiatrists as well as therapists.

## Recommendations

- 1) Expansion of child and youth psychology and psychiatric care both for Austrian and refugee children.
- 2) Legal clarification of jurisdiction and sufficient care: In the area of care, there is a need for facilities for young people with psychiatric problems. There is uncertainty about the financing of these care places. Financing within the framework of basic care is not sufficient. Child and youth welfare does not see its responsibility clearly given.
- 3) Development of low-threshold services for refugee children, as well as financing of interpreters qualified to deal with children.

## Accommodation of unaccompanied child refugees

At peak times in Austria there were about 3,500 care places for unaccompanied child refugees in the basic care system in the federal states. In the last two years there has been a significant reduction of around 2,500 places by the turn of the year 2018/19.

The closing of facilities leads to relocation and breaking off of relationships for young people. From a scientific perspective, the negative effects of this approach on the personal stabilisation and development of children (regardless of their origin) have been known for many years. Many young people have already (without disciplinary reasons) changed care facilities three to four times within their time in Austria. In the federal states, the drama increases if the change also leads to a loss of training opportunities and the social environment.

## Recommendations

- 1) Introduction of a different financing model for care centres providing basic care in order to be able to sustainably maintain accommodation in the future and to spare young people the problem of a relocation.
- 2) Core financing (to maintain a care facility) and supplementary daily rate financing for the children currently being cared for (to cover their living costs). The reason for this is the state's obligation to have capacities available in the care sector in order to be able to compensate for fluctuations in the number of applications. Bottlenecks must be avoided in accommodation for unaccompanied children, as was the case in 2015 and 2016.



## Funding

The care situation for unaccompanied child refugees differs greatly from that of Austrian children and adolescents in alternative care, who cannot grow up with their parents. A much lower daily rate (between 40.50 Euros and 95.- Euros) is paid by the state for these refugee

children than for Austrian children (150.- Euros per day and more).

The different living conditions do not correspond with the UN Convention on the Rights of the Child and the Federal Constitutional Law on the Rights of Children, which grant all children, regardless of their origin, equal protection and care.

## Recommendation

- 1) Equal standards for the accommodation of unaccompanied child refugees and Austrian children in alternative care within the framework of child and youth welfare.**

## Arrival clearing and differentiated care services

After arrival at the federal refugee centres and approval to enter the asylum procedure, unaccompanied child refugees are, for the apparent lack of system, assigned to accommodation in a federal state as part of the basic care. As anchored in constitutional law, state action must be based primarily on criteria in compliance with the best interests of the child.

Recently, an accommodation for unaccompanied child refugees, which was secured by barbed wire and a guard dog was newly opened and closed again due to massive pressure in an Austrian village near the Czech border, in which so-called problem youths were only allowed to leave the home accompanied by security (see also chapter General Measures).

## Recommendation

- 1) Clarification of the care needs, considering child welfare (clearing), of arriving children in order to be able to choose a suitable place to live.**
- 2) The creation of a more differentiated range of childcare services is urgently needed in conjunction with clearing. There is a need for a variety of services, from assisted living to intensive socio-educational care.**

## Accommodation for families

Families are also assigned to accommodation in the federal states without clarification of their needs. However, the living conditions and perspectives of the children concerned vary greatly, depending on whether they are accommodated in an urban area or in a rural area.

There are no uniform standards for accommodation in Austria.

## Recommendation

- 1) Ensure that all child and adolescent care facilities have child protection policies that prevent violence in facilities as far as possible, and that immediate protection and education are provided in the event of attacks against children. The UNICEF Minimum Standards for Child Protection in Refugee Accommodations should be used as a guideline for this purpose throughout Austria (in federal and federal-state accommodations).
- 2) To take measures to identify at an early stage, risks to children and adolescents resulting from predicaments in the context of exploitation and child trafficking and, if possible, to prevent children from leaving facilities prematurely without care.

### Custody for unaccompanied child refugees

The timespan it takes to clarify custody for unaccompanied child asylum seekers presents a gap in the care of unaccompanied children. In the case of the presence of adult relatives in Austria, custody is transferred to them if possible. Again and again problematic constellations arise, which can only be defused by media pressure in the interest of the children.

For those children who have no connection to relatives (about 90%), the application for transfer of custody is usually only made after assignment to an accommodation in a federal state. Waiting times for age determinations and hence remaining in federal care, result in care gaps of several months. In addition to care and education, the exercise of custody also includes legal representation including access to legal advice and support as well as clarification of perspectives.

## Recommendation

- 1) Introduction of a legal regulation which places the responsibility with child and youth welfare in order to ensure the best interests of the child by transferring custody to child and youth welfare from the first day of the known stay in Austria.
- 2) After arrival, child and youth welfare should carry out a detailed examination of the custody situation. This should be used as the basis for a court decision on custody.
- 3) Sufficient resources in child and youth welfare to ensure adequate care for unaccompanied minor refugees. Comprehensive support services for adult siblings taking care of their child siblings.

### Police operations

Young refugees are often exposed to incomprehensible and shameful acts by security forces. In the NGO sector, there are increasing reports that racist behaviour and racist expressions by police

officers have increased in recent years, as has the increased control of young people in the form of so-called "police kettles"/strategic actions in public places. These seem to be directed against minority groups, are often perceived as degrading and impair the sense of security of the people concerned.

## Recommendation

- 1) Specific training of security service bodies on this subject and encouragement to discontinue such strategic actions, which are directed against young people in an undifferentiated manner and without individual suspicion.
- 2) Revision of the Security Police Act to better meet specific child rights requirements in dealing with children and adolescents in the security administration.

## Education and employment

During the reporting period, multiple educational opportunities for young refugees were created in individual federal states. It was/is sometimes problematic that the design of projects increasingly meets the needs of newcomers and overlooks the fact that many young people have been living in Austria for two years or more and have also acquired competences during this time. Since the current federal government took office, austerity measures in this area have been clearly noticeable.

The "Mandatory education until 18" explicitly excludes asylum seekers. After reaching the end of compulsory schooling, access to school education and qualification programmes is not guaranteed.

Until the summer of 2018, it was possible for young asylum seekers to start an apprenticeship in limited occupational fields if no Austrian or a person with an equal legal status could be found. The current Federal Government has repealed the corresponding decree (see also chapter Education).

## Recommendation

- 1) **Conducting a training-needs analysis for young refugees already living in Austria and subsequently expanding the corresponding training measures (in particular B1 German courses and compulsory school-leaving certificate courses).**
- 2) **Right to training (including apprenticeship) for all young people up to 21 years of age living in Austria.**

## Improved data on refugee children

In the Recommendations No. 18 and 19 of 2012, the UN Committee on the Rights of the Child called for a breakdown of the data collected on, among others, labour market, employment, education, health and social issues, also by migration status. The fact book on "Children in Austria" does not show any progress in this

respect with regard to child refugees, as only data on unaccompanied child refugees and only those that are already generally accessible are published. Data on accompanied child refugees and therefore also data enabling statements on the situation of child refugees in general, are missing. In addition, the data are only broken down by age of adulthood/minority – needs-oriented age categories are missing.

## Recommendation

**The following data should be systematically collected in future in order to improve the data situation on asylum-seeking child refugees:**

- 1) **Asylum-specific data should show accompanied child refugees separately and report the data for unaccompanied child refugees according to more detailed categories (in particular comparable age categories).**
- 2) **A systematic and nationwide uniform collection and provision (publication) of data on child refugees by gender, needs-oriented age categories, nationality, family status upon entry (accompanied/unaccompanied), protection status and geographical location (federal state) for the following areas:**
  - Number of asylum applications by child refugees
  - Number of children born subsequently
  - Accommodation data of child refugees
  - Voluntary and forced return of child refugees (including country of return)
  - Data on alien police measures, in particular detention pending deportation (mature children or family accommodation), residence requirement and deportations
  - Family reunification (entry applications and permits for both children and parents)

### 3) Systematic and nationwide uniform collection of data on access to education for children and adolescents seeking asylum (accompanied and unaccompanied) within the first three years after arrival in Austria. In particular:

- Time span until school-age children are admitted to the school system (in months). Proportion of child refugees for whom access to school takes longer than three months.
- Proportion of child refugees who have access to kindergarten or care before compulsory schooling (under five years).
- Access to education, training and apprenticeship for young people after compulsory schooling (15 years and older)
- Percentage of young people over 15 years of age attending secondary school (broken down by asylum seekers and persons with protection status)
- Percentage of young people over 15 years of age who are doing an apprenticeship or training (broken down by asylum seekers and persons with protection status)
- Percentage of young people over 15 who are not in school or training (broken down by asylum seekers and persons with protection status)

### 4) Systematic and nationwide uniform collection of data on access to health care:

- Percentage of child refugees with/without health insurance
- Percentage of children receiving treatment (breakdown by type of treatment)

## Accompanied child refugees

Child refugees who have come to Austria accompanied by their parents or other family members are often – unlike unaccompanied

child refugees – not perceived as holders of children's rights. Irrespective of family integration, the rights and situation of the children must be taken into account.

## Recommendation

1) With regard to accompanied child refugees, we call for broader training and awareness raising of all relevant actors and support structures for the needs and rights of accompanied child refugees.

2) Accessible and child-specific support structures, such as low-threshold points of contact for refugee children and young people in the areas of schooling, health, psychosocial support, legal counselling and housing.

## Concerns about pending political developments

Since the current Federal Government took office in December 2017, retrogression for asylum seekers and thus also for many children in Austria have been on the political agenda. We are observing with concern these developments and announcements, which give rise to fears that children's rights will also be endangered in the future. These fears concern in particular planned nationalisations in the area of accommodation and legal advice.

While uniform standards are usually to be welcomed, there is concern that the state-organised

accommodation of asylum seekers could lead to the erosion of standards. This concern is fuelled by the fact that the accommodation of asylum seekers (and in particular children), which is organised by the Federal Government, is already of poorer quality compared to the basic care provided by the federal states, as the Federal Government interprets the Basic Care Act (Grundversorgungsgesetz – B-GVG) differently (more cost-effectively with less care expenditure). In the media, for example, there is also talk of large-scale accommodations in the periphery.

If legal counselling is state-organised, it will give rise to fears that legal counsellors might be bound by directives and/or that the counselling

and representation services received by the minors concerned, could be reduced.

Corresponding legislative changes are to come into force at the beginning of 2020.

## Child trafficking and sexual exploitation

### Current situation

The identification and care of child victims of trafficking continues to pose a particular challenge and is not sufficiently successful. While the proportion of underage victims in the EU is 23%<sup>92</sup>, it is 10% or 5%<sup>93</sup> in Austria. The most frequent exploitative purposes of child trafficking in Austria are sexual exploitation and exploitation to commit criminal offences.

Europol reported for the first time in 2016 that approximately 10,000 unaccompanied children disappeared in Europe. As a transit and destination country, Austria bears an important responsibility. It is to be feared that some of the children have become victims of human trafficking. Since child trafficking takes place in secret, the number of children and adolescents affected can only be estimated.

Sexual exploitation: The media repeatedly report on the police's strategic actions against "child prostitution". Most of them are non-Austrian children, for example from Hungary, who are picked up in Vienna.<sup>94</sup> Since 2016, there has also been an increase in reports about underage refugees offering sexual services to support their families.<sup>95</sup> Emergency shelters report that often homeless young people also offer sexual services.<sup>96</sup>

Sexual exploitation online is widespread. According to a study, 27% of all children and young people between the ages of 11 and 18 have experienced sexual harassment on the

Internet at least once; girls are affected three times more often than boys, at 40%.<sup>97</sup>

### Positive developments

In 2016, the Working Group on Child Trafficking of the Task Force on Combating Human Trafficking developed and distributed an information brochure<sup>98</sup> for relevant actors – e.g. child and youth welfare – concerning the identification of child victims.

In the National Action Plan 2018-2020 of the Task Force on Combating Human Trafficking, the number of specific measures in the area of victim protection for children was doubled. This includes important areas such as non-punishment, guardianship and the development of an institutional protection concept.

### Negative developments

In the state report, the "Guidelines" for professionals are wrongly referred to as the "national referral mechanism/NRM".<sup>99</sup> However, the document does not meet the criteria set out in international standards because it is not legally binding – it is merely a recommendation. In addition, comprehensive accompanying measures are missing or not budgeted, such as information events in the federal states, systematic training for professionals, etc.

It was also noted as *urgent* in the two GRETA reports on Austria<sup>100</sup>, that there is no comprehensive protection concept for underage victims of human trafficking, which would also include accommodation and care. To some extent, this is available in Vienna, but the capacities and resources are not sufficient. The transfer of competence of child and youth welfare from the federal government to the nine individual federal states, which was decided in 2018, will make the rapid development and implementation of a protection concept more difficult (see also chapter Family environment and alternative care).

92 Cf. [https://ec.europa.eu/anti-trafficking/eu-policy/a-europe-that-protects-commission-calls-for-continued-action-to-eradicate-trafficking-in-human-beings\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/a-europe-that-protects-commission-calls-for-continued-action-to-eradicate-trafficking-in-human-beings_en).

93 Cf. [https://bundeskriminalamt.at/303/files/Menschenhandel\\_17.pdf](https://bundeskriminalamt.at/303/files/Menschenhandel_17.pdf). Explanation of the proportion of minors: this is 10% if the number of identified children is put in relation to the total number of identified victims according to § 104a Penal Code; if, however, § 217 Penal Code is also included, this results in a proportion of underage victims of 5% (see report, p. 8).

94 Cf. <http://www.ware-mensch.at/news/wien-stuwerviertel-der-kinderstrich-ist-zurueck>.

95 Cf. <https://diepresse.com/home/panorama/wien/5064516/Junge-Afghanen-gehen-fuer-ihre-Familien-auf-den-Strich>.

96 Cf. Feedback from workshops conducted in Austria as part of the IOM & ECPAT project "Protecting Children in the context of the Refugee and Migrant Crisis in Europe".

97 Cf. <https://www.sos-kinderdorf.at/so-hilft-sos/kinderrechte/sicheronline/studie>.

98 Cf. Action orientations for identifying and dealing with potential victims of child trafficking, [https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Handlungsorientierungen\\_zur\\_Identifizierung\\_und\\_zum\\_Umgang\\_mit\\_potenziel...pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Handlungsorientierungen_zur_Identifizierung_und_zum_Umgang_mit_potenziel...pdf).

99 Cf. National Referral Mechanism: Standardised and systematically coordinated procedures of the relevant actors in the identification of victims of human trafficking.

100 Cf. <https://www.coe.int/en/web/anti-human-trafficking> 2nd report from 2015, [https://bim.lbg.ac.at/sites/files/bim/attachments/greta\\_2015\\_19\\_austria.pdf](https://bim.lbg.ac.at/sites/files/bim/attachments/greta_2015_19_austria.pdf).

The care of unaccompanied child refugees and refugees is inadequately regulated. There is a lack of a guardianship concept for the best possible representation of the interests of these groups of children.

The non-punishment principle aims at avoiding the criminalisation of victims of human trafficking, who are forced to commit violations of the law in this context. However, the definition of the principle, as stated in the State Report, is insufficiently implemented for underage victims of human trafficking. The reference to Art. 10 Penal Code, necessity as excuse, presupposes the immediate threat, which is, however, irrelevant according to the definition of child trafficking in Art. 104a Penal Code.

Apart from statistics on police reports, there is a lack of scientifically sound basis for quantitative and qualitative data on the forms, extent and effects of child trafficking and the sexual exploitation of children in general and the effectiveness of measures. This also complicates the development of relevant prevention, intervention and assistance concepts, for example concerning the prostitution of children.

There is no comprehensive, national strategy for digital education which also includes the targeted prevention of (sexual) exploitation online with the aim of enabling and empowering children and young people to better protect themselves (see also chapter Protection against violence on the Internet).

## Recommendation

- 1) **Development of a nationwide protection concept for victims of child trafficking based on uniform standards for the care and accommodation of victims of child trafficking throughout Austria; if necessary, creation of a (nationally accessible) protection facility.**
- 2) **Regular, institutionalised training courses for employees of child and youth welfare and for caregivers in institutions for families and unaccompanied children in all federal states, with a special focus on the use of "guidelines for action".**
- 3) **Assessment of an alternative model for the care of potential child victims, e.g. guardianship model, including good practice examples from other EU countries.**
- 4) **Measures for effective access to rightful treatment for trafficked children, including legal advice and access to compensation.**
- 5) **Information material in easily understandable language for distribution to potential**
- 6) **Assessment of the approach in the case of the return of (potential) victims of child trafficking and development of a comprehensive approach based on good practice examples of measures to protect (potential) victims of child trafficking to optimise return in line with children's rights and extension of the network of partnerships to ensure the best interests of the child.**
- 7) **Study on the application of the non-punishment principle and development of recommendations and further measures to prevent the criminalisation of child victims of trafficking.**
- 8) **Conduct of a comprehensive baseline study on child trafficking and sexual exploitation of children in general.**
- 9) **Development and implementation of a National Digital Education Strategy, including targeted prevention of (sexual) exploitation online.**



## Juvenile justice system

### Current situation

In its Concluding Comments 2012, the UN Committee on the Rights of the Child recommended with regard to Austria especially measures to avoid pre-trial detention of juveniles (or reduce their duration), improvements in access to psychosocial and therapeutic support for juveniles in prison, as well as increased reintegration measures and, finally, feasibility studies on the institutional infrastructure in the field of juvenile detention.

### Developments in the reporting period

After several cases of severe sexual violence against juveniles in detention by other detainees became known in 2013, the Ministry of Justice set up a round table of experts to present a comprehensive package of measures to prevent pre-trial detention of juveniles and violence during detention.<sup>101</sup> In addition to immediate measures to reduce the multiple occupancy of cells, especially in the Vienna-Josefstadt Prison, which was not originally set up to accommodate juvenile prisoners,<sup>102</sup> the group of experts recommended, among other things, alternative accommodation options as well as the introduction of "social network conferences", cooperation between actors from the juvenile's personal environment (relatives, friends), probation assistance and other institutions to avoid imprisonment. In part, these measures were implemented through a reform of the Juvenile Courts Act in 2015, providing for the possibility of social network conferences both to avoid pre-trial detention and to support the preparation of conditional release. In addition, the availability of juvenile court assistance, previously limited to Vienna, was extended to the whole of Austria. However, further recommendations of the Round Table, for example regarding models for an open juvenile justice system, were not implemented.<sup>103</sup>

Austria's support for the UN study on the imprisonment of children to be completed in 2019, to

which Austria is one of the few countries in the world to have made financial contributions, is to be positively acknowledged.

Another area of concern are the measures to avoid the radicalisation of young people, in particular by Islamist militant groups in Austria. The challenges lie both at the level of society as a whole with regard to improved measures against the lack of perspective of some young people (labour market, social integration, gender work)<sup>104</sup> and in dealing with young people accused of crimes in connection with terrorist activities. An accompanying study<sup>105</sup> from 2017 on a package of measures by the Federal Ministry of Justice showed that measures taken to avoid jihadist subcultures in prisons, for example, were effective, but that there is still a need for action, for example in access to pastoral care and increased cooperation in specialist services. Further action is needed to prevent delinquency among children below the age of criminal responsibility (14 years), especially in the area of child and youth welfare, in accordance with experience from the justice sector.

A particularly worrying development with regard to an increasingly general criminalisation of certain groups of youths was the handling of asylum seekers. In November 2018, it became known that on the initiative of Gottfried Waldhäusl, the provincial councillor from the Freedom Party, responsible for asylum seekers in Lower Austria, certain "conspicuous" young people seeking asylum were to be transferred to a special accommodation in Drasenhofen in the border region with the Czech Republic. The member of the federal government accused the young people of assaulting other housemates, police officers and professional staff in former institutions. Consequently, they were to be kept isolated in this facility, which was permanently monitored by a security service with watch dogs, fenced with barbed wire and with very limited possibilities for going out<sup>106</sup> – a form of deprivation of liberty that had no legal basis at all.<sup>107</sup> After public criticism and an on-site examination by the Lower Austrian Ombudsof-

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101 Cf. Federal Ministry of Justice, Pre-trial detention for juveniles – avoidance, shortening, enforcement – final report, Vienna. 2013/14 (BMJ, Untersuchungshaft für Jugendliche – Vermeidung, Verkürzung, Vollziehung – Abschlussbericht, Wien. 2013/14)

102 For criticism of the dissolution of the Vienna Juvenile Court in 2003 and the problematic consequences for the accommodation and care of juveniles in Vienna-Josefstadt see Network Children's Rights Austria, Supplementary Report, Vienna 2011, 46f.

103 See also the analysis and recommendations of the Ombudsoffices for Children and Youths on children and young people in prison, Report of the Ombudsoffices for Children and Youths of the Austrian provinces on the Special Report of the People's Advocate's Office, 2017.

104 Cf. Ludwig Boltzmann Institute for Human Rights, BIM Position No. 8, On Dealing with the Radicalization of Youth and Violent Extremism from a Human Rights Perspective, January 2017.

105 Hofinger/Schmidinger, Deradicalisation in prison – Final report on accompanying research, Institute for Sociology of Law and Crime, Vienna 2017.

106 Cf. ORF Lower Austria, Report from 28.11.2018, <https://noe.orf.at/news/stories/2949907/>.

107 Cf. amnesty international Austria, Human Rights in Austria 2018, Press Release 10 December 2018, <https://www.amnesty.at/presse/menschenrechte-in-oesterreich-2018/>.



Office for Children and Youths, which found this institution unsuitable for care,<sup>108</sup> the institution was closed again and the young people were transferred in December. After the People's Advocate's Office had criticised the quality of another accommodation facility for young asylum seekers, the same provincial councillor initially even suggested the abolition of the People's Advocate's Office in January 2019.

## Recommendation

- 1) State measures to ensure child rights standards in the areas of deprivation of liberty and juvenile justice, especially against the background of the developments described above.
- 2) Ensuring the principle of pre-trial detention and prison as a last resort and only for the shortest time necessary.
- 3) Non-criminalisation of asylum-seeking children by policy-makers.
- 4) Creation of possibilities of alternative accommodation to detention (for example accommodation in special shared flats).
- 5) Increased support for the use of social network conferences.
- 6) Support for research on children and young people in conflict with the law, including on the interaction between child and youth welfare and justice, and on evaluation models in the field of prevention.
- 7) Legal entitlement to compulsory schooling, further training and adequate leisure activities in (pre-trial) detention.
- 8) Legal entitlement to psychiatric and therapeutic treatment during (pre-trial) detention.
- 9) Use of multi-professional teams (including social pedagogues, social workers) in the penal system to support rehabilitation.
- 10) Improved institutionalised and standardised exchange of information and cooperation between child and youth welfare and their institutions, children's and young people's health services, child and youth psychiatry, probation/NEUSTART, criminal police, public prosecutor's office and courts.
- 11) Improvement in dealing with foreign young inmates, especially intensification of German courses in prison.
- 12) Further implementation of the package of measures on de-radicalisation in detention.

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108 Cf. Ombudsoffice for Children and Youths Lower Austria, press release from 30.11.2018, [https://www.ots.at/presseaussendung/OTS\\_20181130\\_OTS0194/kinder-und-jugendanwaltschaft-niederosterreich-zum-thema-asylquartier-drasenhofen](https://www.ots.at/presseaussendung/OTS_20181130_OTS0194/kinder-und-jugendanwaltschaft-niederosterreich-zum-thema-asylquartier-drasenhofen).

# J. Ratification of international human rights instruments

See chapter A.