

**National Coalition  
for the implementation of the  
UN Convention on the Rights of the Child**

**AUSTRIA**

**SUPPLEMENTARY REPORT OF THE NATIONAL COALITION**

**On the Second Report of the Federal Republic of Austria pursuant  
to Article 44 of the UN Convention on the Rights of the Child**

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## Summary

Inclusion of child rights NGOs in the preparatory process for the Second State party Report of Austria at a rather early stage - contrary to the initial report - resulted in a broad range of information submitted to the Austrian Government. However, the structuring and coordinating of the governmental reporting procedure still needs to be improved.

The general situation of children and adolescents in Austria is satisfactory when compared to many other countries. Nevertheless, the benchmark for evaluation of the current status of realisation of children's rights is the maximum possible for the individual state. Following from this, there is still urgent need for improvement in several child rights areas, such as: treatment of child refugees, juveniles in conflict with the law, (risk of) child poverty, prevention of violence and abuse etc.

This NC Report does not claim to be complete. Within our limited capacities and resources we had to focus on several core issues, but there are numerous other areas for which the NGOs could offer suggestions for improvement.

The NC Report has been prepared in 2003, with updates in January 2004; any subsequent development could be included only on an exceptional basis.

Note: Annex 3 offers a quick overview from a NC perspective on the status of implementation of the CRC Committee recommendations to the Austrian government in 1999.

The National Coalition (NC) Austria was founded in December 1997, as a network for the promotion of the implementation of the UN Convention on the Rights of the Child. In their every-day work NC members are concerned with implementing the principles of the CRC; their position is one of a non-governmental or independent institution (refer to the list of member organizations in Annex 1).

## **1. General Measures for the Implementation of the CRC**

*Corresponding to chapter 3 of Austria's State party Report 2002*

In its initial NC Report, the National Coalition criticized the lack of dissemination in respect to the CRC and to the State party report of Austria as well as the lack of reports about measures and actions taken by NGOs and independent institutions. Although the „Concluding Observations“ adopted by the Committee on the Rights of the Child on the situation in Austria were published (together with the Austrian State party Report, but without the NC report!), there was no political or public discussion on this topic, nor were the minutes of the Committee on the Rights of the Child (including the various comments of Committee members) published.

The recommendation of the Committee to develop a coordination structure to make the CRC publicly known and for its implementation on both the federal and regional levels was not met. The “Steering Committee” mentioned in the Second Report, neither had a political mandate nor a clear working program; and not one meeting took place in 2002 to 2004, and no future meeting dates are known.

In order to make the rights of the child better known the NC has been active in numerous ways, such as setting up a homepage on the Rights of Children: [www.kinderhabenrechte.at](http://www.kinderhabenrechte.at)!

The Austrian government has committed itself to implement the results of the May 2002 UN General Assembly Special Session on Children (“World Summit for Children 2002”) in New York. As a concrete follow-up measure the process for the development of a “National Action Plan for the Rights of Children and Adolescents” („YAP - Young *rights* Action Plan“ - [www.yap.at](http://www.yap.at)) was started. Following a decision by the Austrian government, a public “Launch Event” for the elaboration of an Austrian Action Plan on the Rights of Children took place in Vienna on March 26, 2003. Coordinated by the Federal Ministry of Social Security and Generations NC member organizations participated in Working Groups on the following four areas: general child rights issues, participation rights, provision rights, protection rights. The working groups reports were presented in mid-December 2003, along with the results of a major child and youth survey and an Internet database for relevant implementation measures. An expert editorial team compiled the various results of the process and submitted a comprehensive outcome report to the Ministry at the end of March 2004, still waiting for its publication. Based on these results and after extensive consultation on the political level it is expected that the Action Plan will be adopted by both the Government and Parliament in fall 2004.

### **1.1. Children's rights into the Constitution!**

The CRC aims to grant the agreed-upon minimum standards for all children. In case of conflict every child should have the possibility of invoking its basic rights as defined by the CRC.

The CRC includes the contractual obligation of its State parties to take all necessary measures including legislation. Although it does not prescribe methods, the Committee on the Rights of the Child has repeatedly appreciated when specific

provisions were integrated into the national Constitution as partial fulfilment of its implementation obligations.

Constitutional laws limit the scope of discretion by legislation as they rank higher in the legal system's hierarchy. The Constitutional court is a controlling instrument, which assures compliance of all laws with constitutional law. This is of special importance when fundamental laws are concerned. On the one hand, the legislator must not interfere in protected basic rights; on the other hand, it must guarantee that these rights are protected and ensured. The inclusion of specific constitutional rights of children therefore provides for an immediate protection of their fundamental legal status as individuals bearing rights vis-à-vis the government.

Austria is a Federal Republic with nine "Länder" (provinces), all being competent to draft bills and implement laws within their fields of competence (e.g. youth protection laws). Therefore, it is of great importance to have the Rights of the Child included both on the national/federal and regional/"Länder" level (following the example set by Upper Austria).

In 1997 the Permanent Conference of the Ombudsmen for Children and Youth in Austria, commissioned along with the Ministry of the Environment, Youth and Family, the Ludwig Boltzmann Institute of Human Rights in Vienna to conduct a comprehensive study examining the possibilities of including children's rights in the constitution. Finally published in 1999 the study also included a draft for a new Constitutional law on Children's Rights; but without any public reaction from the government. On the non-governmental/NC level, however, a broad platform has developed which supports the calls for bringing "Children's rights into the constitution!". Nonetheless, the Enquete in Parliament, as foreseen by Austria in the course of the review of Austria's Initial Report (more than five years ago), has not yet come to be. On a positive note, the new government's Coalition Agreement declares the adoption of Children's Rights into the constitution as being one of its objectives; and within the framework of the YAP/ Action Plan process, which started in spring 2003, the call of "Children's rights into the constitution" has also been supported by working groups.

In addition, the Austrian Convention for the elaboration of a new Federal Constitution has started in 2003. This will include the drafting of a new catalogue of fundamental rights; the National Coalition is supporting this process again through lobbying for children's rights into the new Constitution.

- **The NC demands** that the UN Convention on the Rights of the Child should be included in the national constitution and at regional level in those Länder where it has not been included so far (only Upper Austria has yet included references to the CRC in its constitution!).
- **The NC also demands** that protection of children's rights should be strengthened and secured on a European level. A positive aspect is the inclusion of Children's Rights in the Charter of Fundamental Rights (Art. 24) and in the draft constitution of the EU convention.

## 2. Definition of the Child

*Corresponding to chapter 4 of Austria's State party Report 2002*

With the Parent Child Relation Amendment Act (Kindschaftsrechtsänderungsgesetz, KindRÄG 2001) which came into force on 7/1/2001, a long-standing claim of the NC was finally met: the age of majority was reduced from 19 to 18 years.

The most problematical issue, however, is that when attaining the age of 18 youth welfare measures come to an end in most of the case. As a result, for those children living in difficult situations, things become even worse. Minors who need the help of youth welfare measures in organizing their lives, are often not (yet) capable of recognizing and bearing the consequences of their actions. A breaking off of support is counter-productive as these youths often have not completed vocational training. The same applies for advance payments for child maintenance ("Unterhaltsvorschuss") which cease to be paid at the age of 18 in general. Hence, in order to obtain maintenance support 18 year olds must file claims at court by themselves, which creates for these young adults the risk of cumulating costs. These adverse effects often become worse due to the fact that some youth welfare benefits running for a longer period of time and to be started already at the age of 16 or 17 (e.g. for extended school/work integration and placement measures) are frequently not granted any longer right from the beginning.

- **The NC demands** continued state support for both cases (child maintenance advance payments, youth welfare benefits) until these adolescents are able to take care of themselves.

## 3. General Principles

*Corresponding to chapter 5.5 of Austria's State party Report 2002*

### 3.1. Child Participation

The establishment (in 2001) of the Austrian Federal Youth Representative Council ("Bundesjugendvertretung") as the representation of the interests of adolescents is to be seen as positive in general. Nevertheless, some of the legally determined structures are questionable in terms of respect for democratic principles.

#### 3.1.1. Voting age

The active right to vote, on national Austrian level, is currently attained at the age of 18; the passive right at the age of 19.

During the past years there have been several political attempts on a local level, to lower the voting age to 16. So far this has been achieved only in the provinces of Carinthia, Vienna, Burgenland and Styria.

#### **The NC demands:**

- Lowering the active voting age to 16 on all levels (for local, regional, federal and EU elections)
- Lowering also the passive voting age to 16, except for mayoral elections and for presidential elections lowering to 18.

### 3.1.2. Participation on local levels

In Austria, children and youth participation models are mainly initiated and carried out by adults. Children and adolescents in their local communities are dependent on adults to give them free and open space, have them to participate in some decisions from time to time and keep the real (adult) decision-makers informed about the concerns of the young people.

Legally provided participation exists only in a few cases:

- In the Salzburg Juvenile Law (§ 4)
- In the Styrian Act on the Rights of the People (Steiermärkisches Volksrechtesgesetz , § 180a para. 4: Recommendation for municipalities to carry out children and youth participation projects and make available a budget for initiatives and activities).
- In the Vorarlberg Juvenile Law (§6: Children and adolescents are given the opportunity to be heard and to participate in matters concerning themselves on regional and local levels).

#### **The NC demands:**

- The establishment of representatives for children and adolescents in all Austrian communities.
- Designated budgets for children and adolescents in all communities (Salzburg is here a positive example – although there is, unfortunately, some room for discretion in the law!)
- Practical civic education: classes and courses with real-to-life projects, including children outside of schools and youth organizations so that they may experience the process of democracy.
- The development of new participation models with and by children and adolescents, enabling them to determine and realize themselves their dreams and objectives.
- The principle of community participation has to be integrated in school education more comprehensively (by way of "learning and experiencing participation")

It is necessary to find adequate forms of decision-making and participation for children and adolescents, which take into consideration the level of development of these children and which abstain from imitating adult decision-making structures.

### 3.1.3. Participation at school

Schools play a very important role in the development of children and adolescents; they is still a strong need for improvement of existing practices regarding child/youth participation.

#### **The NC demands:**

- Relevant decision-making competence should be given to the Joint School Committee ("Schulgemeinschaftsausschuss"). A working group should be established to set minimum standards for this committee.
- The model for Participatory Schools ("Beteiligungsschule") should be promoted. Two different types of schools would be possible:
  - Schools with project-oriented participation structures (e.g. school renovation, designing of schoolyards)
  - Schools with "every-day participation" - either as a project or as a test school.

- Education coaches should be appointed to assist in making decisions about the curriculum, didactical approaches and assessment of students - here decisions based on consensus should be mandatory.
- An independent school ombudsperson (exempt from directives of the particular School Councils), should be appointed for all questions and problems concerning school education. Similar to the Children and Youth ombudsoffices, this ombudsperson should represent the interests of students, give information on legal matters, use meetings to supervise particular school-related problems and develop conflict-resolution strategies with the people involved; all relevant groups (students, parents, teachers, the School Council, parent and school committees and all those having a problem arising from schools) may address the school ombudsperson.
- Conflict-resolution and disciplinary measures within schools should be addressed systematically (SchUG – Schooling Act, SchOrg – School Organization Act). Specific steps for participation of children and adolescents should be determined. In general, participatory models for conflict resolution should be developed and in case of breaches, sanctions should be specified for ALL school partners.
- The frequently concluded so-called “behaviour agreements” (“Verhaltensvereinbarungen”) at school should be abolished anew, as they do not serve to increase democracy, but repression in schools.
- Redesigning school areas – indoors and outdoors – should not be made without the participation of students any longer in the future.
- The school autonomy must be extended further, supervisory school authorities should withdraw as far as possible.
- Marks should be given in verbal form, perhaps by a class plenary.
- Eligibility (e.g. required for attending a higher school, “Matura”/graduation) should be tested by a commission consisting of 2-3 teachers, an educational coach, a parent representative and a student representative.
- Equal participation of students (like in secondary schools/ ”AHS”, “BHS”, Polytechnical Schools) should also be adopted in other school types. Existing pilot projects such as in primary schools can be used as examples.
- “Participation” in schools should become a general standard. “Participation” should become common practice by students and teachers.
- “Participation” should be included in the education and training of teachers (e.g. school partnerships).
- School Councils require competent resource person(s) in the field of “participation”.
- School participation should be supported in communal processes; integration of projects offered to schools should become easier.

#### **4. Fundamental Rights and Freedoms**

*Corresponding to chapter 6 of Austria's State party Report 2002*

#### **4.1. Right to privacy, secrecy of letters**

Adults and above all parents still need to be trained in the importance and awareness of this right. Children and adolescents often tell that this basic right of privacy (for instance, in regard to their personal e-mails, letters, diaries, ...) is violated in their daily life.

#### **4.2. Right to information**

In Austria, the legal basis for these issues is found in the relevant Media Acts (ORF Act, Private Television Network Act, KommAustria Act), in the national film laws ("Lichtspielgesetze"), and in the (regional) youth protection laws. As regards the latter a problem arises from the (9) Länder's competences, allowing for nine different regulations, creating an obstacle to non-discriminatory standards and implementation throughout Austria. Different age limitations, different, vaguely defined criteria in assessing harmful or adverse effects and/or suitability of media products make classifications appear arbitrary. Limitations are therefore less willingly accepted by young people, parents and teachers.

There is still a lack of awareness of the constitutional principles prohibiting differentiation without reasonable grounds as far as the exclusive competences of the Länder are concerned. Apart from a complete reform of competences this problem could be solved by including the Convention on the Rights of the Child in the federal constitution or by agreements between the Länder for joint standards, e.g. on common age limits etc. Budgetary austerity measures must not lead to situations resulting in children being treated differently based on their place of residence; in particular in relation to children of disadvantaged groups. All children should have equal access to high-quality services in the areas of education, media and leisure activities (TV information, pre-schooling programs etc). Moreover, there are no radio and TV programs for children speaking minority languages.

It needs to be stressed that the State party Report describes this topic very selectively and euphemistically, i.e. legal provisions and intentions of implementation are sometimes reported as facts without a further assessment. Furthermore, we want to stress that Austria's reservations under international law declared by the government upon ratification of the CRC (on Arts. 13, 15, 17) – already discussed during the consideration of the Initial Report of Austria in 1999 - have still not been withdrawn and continue to limit the rights set forth in the CRC in relation to freedom of speech and the right to information.

In Austria there are, as mentioned in the State Report, student magazines and a youth Internet radio network, but there is no national daily children's magazine, no open channel or radio broadcast where children may talk about their opinions regularly as individuals and separate from school. In this very closed media setting implementation of the freedom of expression is therefore very limited.

##### **4.2.1. Access to adequate information (Art.17)**

This is – as already stressed in the initial report – insufficient in terms of adequate choice but also in terms of protection against programs detrimental to the development of young persons. Legal provisions for the limitation of the "dissemination of violent and violence-inducing images, texts and games" through

mass media offer a rather vague and insufficient framework; there are no clear criteria for checking of contents and there is no institutional structure (e.g. central or self-regulated classification system and institutions, taking into account ethical matters, human rights standards, third party interests etc).

No assessment of observance of provisions relevant for youth protection has been made in relation to EU standards and related amendments to the ORF Act and the Private Television Network Act (broadcasting time and the labelling of programs which can have adverse effects on the development of minors, advertising regulations ...) after Austria has joined the EU in 1995, and no complaints or requests of interest groups concerning this situation are mentioned in the State Report.

#### 4.2.2. Internet and new information services

The projects quoted in the State Report on voluntary self-regulation of Internet providers and an EU project that had been implemented with the support of the Ministry of Youth by the "Institut für Gewaltverzicht" no longer exist as there is no longer any money available for these activities and the EU project has been terminated by now.

There is a lack of adequate monitoring and control (lack of mandate, institutions and mechanisms/sanctions) of the self-regulation system in Austria. The KommAustria Act contains minimum standards for child, youth and consumer protection. The Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH) is the supervisor of all private broadcasting companies. If, however, there is no clear awareness for youth protection and quality programs in the supervisory boards of the state-sponsored ORF, private media companies and regulators will not have an incentive to apply stricter rules on their own. This requires still a lot of awareness-raising efforts.

#### **Recommendation Lists for Computer and Video Games:**

The booklet "Tips for Computer Games", which is updated annually gives welcome basic information and advice to parents and teachers. When it comes to up-to-date and comprehensive advice, however, it provides insufficient information. The age recommendations are – as with all decisions made without representatives of the relevant social groups or professionals – rather subjective and no alternative recommendations are made instead. The Mediapark project, which is mentioned in the State Report, has ceased to exist.

#### 4.2.3. Youth Protection Provisions

Age limitations are different in the Länder and insufficient communication results in lacking acceptance of age ratings of movies. There are, however, notes on media being harmful to the youth in the youth protection provisions of the Länder, nonetheless, there is no Austrian-wide valid age limit system (on videos and DVDs, movie classifications are made through reference to the German system (German film industry - FSK; computer games and CD ROMS - USK)).

As far as cultural activities are concerned, we find that the support for children and youth culture is a problematic area with no specific concept for the support of children and youth media and no designated budget. There should be a designated budget for child and youth media of about 20 % of the whole cultural budgets of federal, regional

and municipal levels. In this regard it is alarming that the Austrian Institute for Youth Research has been at risk by rigid austerity measures!

**Children's film – Children's book – Child and Youth theatre:**

The measures listed in the state report mainly concentrate on Vienna. A specific children's film production is not recognizable any more in Austria - here is a real need for initiatives.

**4.2.4. Special Protection Provisions**

Austria is much less aware of the problems of youth protection than Germany. Feature films reach higher quotas when they are shown at prime times; therefore, the most intense scenes are often removed from the original and then these films are considered suitable for minors. Additionally, trailers come close to the limits, trying to attract the youth to watch these films. The result being that problematical issues and forms of presentation can be watched by younger age groups who then consume the videos and DVDs of the same name, which, in extreme cases, are published as director's cuts (with previously removed scenes included).

Young people should be protected from economic exploitation (Art. 32, 36). Thus, their access to some of these medias is restricted (e.g. by limited contractual capability). Furthermore, the good faith of young people and their critical judgment must not be exploited by advertising means. This also includes giving stronger attention to role models used in the media and advertisements.

**The NC demands:**

- The nation-wide harmonization of youth protection - at least as far as the media are concerned, ideally also in the whole German-speaking countries and beyond.
- Access to adequate information and the protection of children from harmful medial influences in order to enable them to get information from suitable sources, assess them and integrate this information into their lives – promoting the media competence by area-wide and integrative media education.
- The establishment of a suitable institution / assessment of the harmfulness of violence and activities calling for violence and/or recommendations for the protection of the best interests of the child. Age limits are set only for movie performances in cinema, regulated by the various respective laws of the Länder. The observations of the Youth Media Commission at the Ministry for Education, Science and Cultural Affairs are of recommendatory character to be implemented at the discretion of the Länder.
- Adequate consideration of family and children's concerns and dissemination and support of national and youth education in television through the ORF! For several years, relevant institutions have criticized the lack of informative programs for children (e.g. including nature, fauna, science, children's worlds). In order to attain a personal opinion, more than 10 minutes news on Saturdays (repeated on Sundays) which mainly consists of chronicle articles and curiosities are necessary (apart from some exceptional programs which impress positively).
- Programs relevant to youth protection should be labelled and be broadcast at times when children do not usually watch TV. The current regulation that programs released for ages older than 15 (either by the Youth Media Commission, the FSK or the FSF (voluntary self-classification in Germany) are broadcast later than 10 p.m. is insufficient for child/youth protection. In this connection, a release for the ages 12 and older is on the cutting edge of what

should be shown at prime time. Editing films that have been produced for adults should not be possible for responsibly acting broadcasters.

- No misuse of product placement in child-relevant programs - the exemption for product placement und sponsoring from advertising time (which is therefore not regarded as advertisement in the ORF Act) when programs are produced for the ORF and can be used to exploit the special trustfulness of children towards their "stars" (e.g. "Tom Turbo"/Thomas Brezina) should be abolished.
- A network or a general "seal of approval" obtained by evaluations made by NGOs would make it easier for consumers to get some orientation. Positive lists for media require clear and comprehensible criteria. The international discussion about self-regulation assumes that media suppliers classify and describe their products and indicate the target groups. Supporting measures for parental media competence are necessary, e.g. through parent education, training for day care personnel, regular orientation brochures etc.

## 5. Family Environment and Alternative Care

*Corresponding to chapter 7 of Austria's State party Report 2002*

### 5.1 Youth Welfare

All children and adolescents who cannot live with their parents or relatives have the right (in accordance with the CRC) to be cared for in a manner consistent with the evolving capacities of the child in a private or public institution or foster family. In 1999, the statistical registration of this group of children and adolescents in Austria has stopped on the nation-wide level. In 1999, this group was comprised of 9,917 children and adolescents.

The competences concerning youth welfare are being shared between the federal government and the Länder. The federal government is responsible for setting fundamental laws, the Länder for setting implementation laws and for executing them. As a result, the individual youth welfare institutions of the Länder apply different execution laws and administrative tools and children and adolescents in Austria are cared for in very different qualities. Länder-specific conditions for accommodation are more and more oriented towards financial considerations instead of the children's welfare. There are no binding pedagogic minimum standards for describing the welfare of the child. Basically, youth centers belonging to a province are given priority to private institutions. Private institutions are forced to sign contracts which sometimes threaten their existence from the economical point of view. The variety of privately-owned social and family pedagogic and therapeutical institutions oriented towards the needs of children is currently jeopardized.

Another threatening tendency can be recognized in public youth welfare as far as the lowering of the age of majority is concerned. Adolescents, for whom social integration into society is a special challenge for the institution concerned, juvenile support payments are no longer or only rarely granted beyond the age of 16 or 17.

In the case that juvenile support is paid longer, vocational trainings or school education needs to be continued successfully. Nonetheless, it is especially this group of adolescents who get mature later. A girl, for example, who had been living in an SOS Children's Village from the age of 3, was denied support for attending a

commercial school (Handelsschullehrgang) because she had already finished training and an advanced training course and she was almost 18. Thanks to private initiatives, this girl could attend this school in the end. Adolescents who are not privately supported and often less talented have to live on without any support.

In general we welcome the lowering the age of majority, but in this case the adolescents are deprived of the protection and public support they need before they are 18 years of age.

**The NC therefore demands:**

- a commitment of the youth welfare institutions to be active at federal level and in all provincial laws, on the basis of the UN Convention on the Rights of the Child;
- a nation-wide commitment of the public youth welfare institutions towards their responsibility for adolescents who are in need of hospitalisation and legal interim arrangements concerning youth welfare for young adults;
- maintenance and support of a variety of caring institutions which meet the requirements of the people concerned in terms of quality assurance according to Art 3 of the UN Convention on the Rights of the Child and
- the harmonization of the legal framework for youth welfare and a nation-wide youth-welfare statistics and regular accompanying empirical research.

## 6. Health and Welfare

*Corresponding to chapter 8 of Austria's State party Report 2002*

### 6.1. Disabled Children (focus on school education)

The inclusion of children and adolescents in the ordinary school has been experienced as decisive for achieving equal opportunities, participating in social life and as a step towards a self-determined life.

Participating in our complex and differentiated society, however, requires schools to rethink their differentiating and selective pedagogics and to apply pedagogics of a broad variety, heterogeneity and inputs for various learning processes - accepting that one "benefits from cooperation" and offering contents that suit the particular development of each child by curricula including room for individual development.

Educational institutions have to guarantee equal opportunities for disabled children and adolescents through the undivided right for inclusive education, by removing barriers (on all "levels"), and through the right quality-assuring measures.

#### 6.1.1. Equal opportunities through the right to inclusive education at ALL schools

**The NC therefore demands:**

- Abolition of the "Schulunfähigkeit" ("non-capability of attending school")  
The law still contains the term "Schulunfähigkeit" although Art. 2 (prot.1) of the ECHR and Art. 28 CRC determine that nobody must be denied the right of education.
- Abolition of a school that may only be attended by "healthy" children!  
§ 3 para. 1 lit. c SchUG determines that being acceptance to an Austrian school depends on the required health and physical fitness. This regulation discriminates disabled students and contradicts the corresponding article of the constitution and must therefore be abolished.

- Abolition of the nation-wide “limitation” of the permitted number of disabled children when permanent posts are planned!

As far as the area of pedagogics for children with special needs is concerned, the Ministry of Finance presumes that 2.7 % of students in compulsory schools (only to the 8<sup>th</sup> school year!) need to be supported by special pedagogics (SP). Despite the increasing number of students with SP to 3.3 %, the Ministry never adapted its findings! School experiments in the 9th year of schooling were not considered. The result: not enough teaching hours in order to be able to support and assist children with SP in integrative/inclusive schooling!

- Abolition of limits for integrative schooling!

Disabled students can currently opt for integrative education only for a maximum of 10 years. An 11<sup>th</sup> or 12<sup>th</sup> year of school is only made available in schools for children with special needs! – Schooling beyond this time is generally not planned for disabled adolescents!

- Abolition of the limitations in the choice of the school career!

Non-disabled students are offered a range of different options after the 8<sup>th</sup> year of schooling. Nevertheless, disabled students may attend school experiments in the Polytechnical School at the best or a special school. It is them who always were regarded retarded in their development and need more time for learning something new, who must leave school first. Currently, they are reduced to courses that are mainly financed through the temporary “Disability billion” of the state budget. Adolescents who presumably do not fulfil the expected quotas of the sponsors often do not even get this chance!

- Education and trainings of all teachers must meet the quality standards for inclusive education!

All pedagogical academies and universities of Austria must be obliged to teach “inclusive pedagogics” as the basis for all pedagogic actions in all their courses of instructions.

#### 6.1.2. “No barriers” because of non-bureaucratic personal and material support

##### **The NC demands:**

- School Transport:

Disabled children and adolescents are to be transported to school with the same means of transportation as other children! If necessary, the necessary staff must be made available to accompany them! Parents of children with special needs in integrative classes often have to organize these transports themselves (they are mostly organized for special schools!). This includes more work and is often a disadvantage for working mothers.

- Organization and equipment of the school, school rooms and the working place: Schools must be organized and equipped adequately and systematically for children and adolescents with special needs – and not only “if required”! There is a good reason why seriously disabled children are not excluded from integration. The necessary subsidiary services, nursing staff etc. and supporting material (adapted PCs, ...) are currently often not provided at all or only through difficult individual initiatives.

- Children and adolescents with impaired hearing currently do not or barely have the chance of experiencing inclusive schooling as there are not sufficient teachers who know the sign language.

### 6.1.3. Quality assurance through regional centres for inclusive pedagogics for all.

With the introduction of integrative schooling, special pedagogical centres (SPC) were established for providing additional support. Due to the lack of financial resources on the one hand and because they were based at special schools (“competitors” to integration), they have not been developed as provided for by law.

Some SPCs, which integrate and support all children with SP of a particular school district, must currently be closed even as they do not have students. Directors of special schools manage their schools; hence they often fulfil their tasks as heads of SPCs often insufficiently when it comes to terms of supporting integration.

Centres for inclusive pedagogics for all children should be legally installed as independent centres equipped with resources for advice, accompaniment and intervention as the appropriate address for all regional schools. Especially the comprehensive support of inclusion – including therapeutical and nursing support – must be their responsibility.

#### **Final comments:**

Inclusive education includes free access to schools with development-oriented and individualized teaching for all students. This proceeds from the strengths and needs of the individual child, offers personal input as well as challenges in various ways and facilitates that schools provide room for learning and living in which young people are accepted with all their abilities, in which they are strengthened and recognized as being capable of developing further and achieving results. The target is always the best individual education! The current policy towards the disabled and towards education forces disabled children and adolescents back to the dead end of special schools after years of (successful) integration in other schools. “Natural limits of integration“ are proclaimed, and at least after the inclusive compulsory schooling time ends, students with handicaps are reduced to so-called qualification measures preparing them for vocational training/professional life.

#### **The NC demands:**

- for children and adolescents with handicaps stronger laws based on children’s rights are needed in the educational sector. Additionally, a law for equal opportunities must establish enforceable rights for disabled persons – including children and adolescents – and annul the almost 100 discriminating regulations that are currently valid (according to the Office of the Federal Chancellor, GZ 601.978/28-V/4).

## **6.2. Child poverty**

### 6.2.1. Dimension of poverty for children and adolescents in Austria

When trying to determine the dimensions of poverty and social exclusion of children and adolescents (or families) adequately, it is necessary to consider not only monetary aspects but also material, social, cultural and psychical aspects. Especially non-monetary areas shape and determine poverty experiences even for children and adolescents.

In this sense, poverty does not only comprise of a lack of financial resources, but also of other material and immaterial goods (time and education poverty), restrictions

in social and cultural matters, more difficult access to the general infrastructure (education, labour market etc.) and last but not least, it does have adverse effects on health.

### 6.2.2. Monetary aspects

#### **Assessing poverty and the risk of poverty**

Poverty in Austria was officially measured by the so-called "European Household Panel" which defines that the "*threat of poverty*" comes to terms when the per-capita income of a household lies below a threshold value of 60 % of the Median Income, which in Austria currently is € 780,- (further members of the household are assessed: adults with 0.7, children with 0.5). If there are additional burdens (debts, sub-standard flat, no money to buy new clothes), one speaks of "*acute poverty*".

#### **Income poverty of children and adolescents**

Austria is a rich country and the system of social security helps reducing poverty significantly. Without any social transfers, altogether 41 % of the Austrian population would have to face poverty risks. Due to these allowances, however, it is "only" 11 % according to the Social Ministry's Report on the State of the Social System 2001-2002. Thus, benefits for children and families are rather comprehensive when compared to the average European standards, nevertheless, poverty is still a reality.

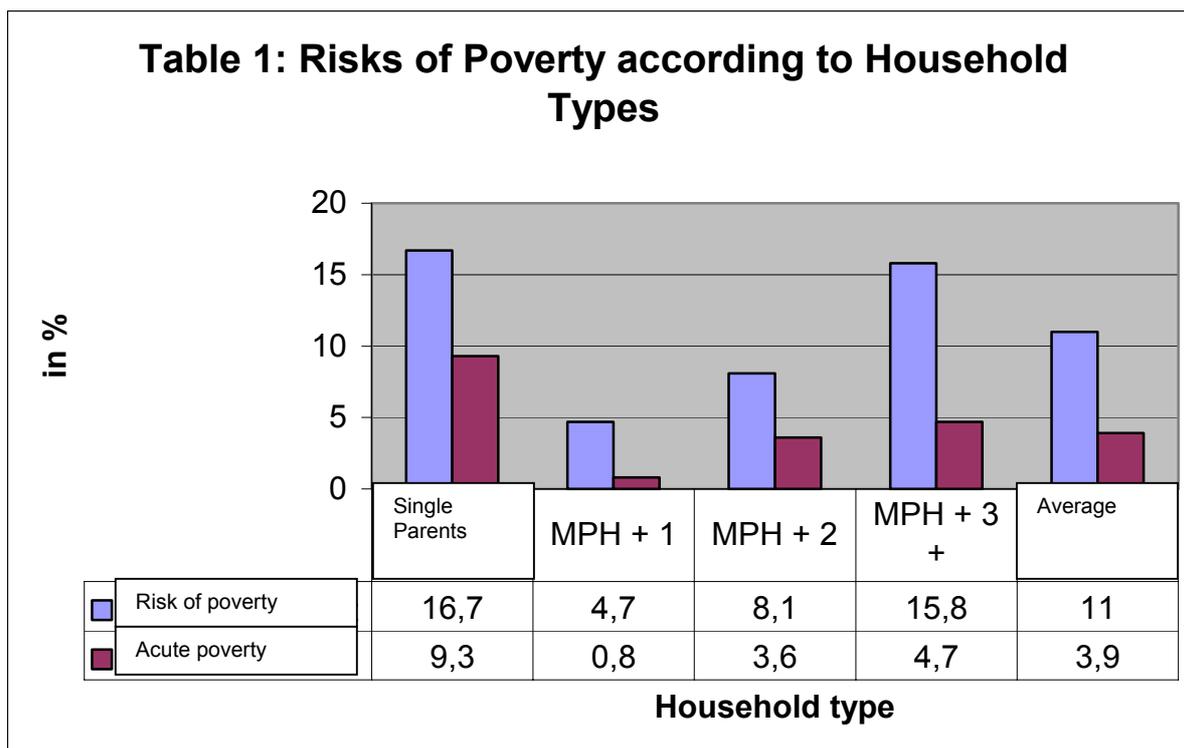
11 % of people at risk of poverty (876,000 people) and 4 % living in acute poverty (313,000 people) clearly show that the Austrian social system is no longer "poverty-resistant". This includes, of course, also children and adolescents and their families:

- In accordance with the European Household Panel 2002, 14 % of the male (126,000) and 16 % of the female (142,000) persons under the age of 20 are at risk of poverty. Compared to the total risk figure of 12 % these groups therefore show a high level of poverty risk!
- In total, these groups constitute 28 % of the poverty-risk population!
- In the area of acute poverty, the situation is similar: 4 % of the male (40,000) and 5 % of the female (49,000) children and adolescents are living in acute poverty (average 4 %), this is also 28 % of the Austrians who live in acute poverty.

When considering child and youth poverty, the whole family must be considered as usually the parents or legal guardians are poor and not the children themselves:

When comparing the allocation of incomes according to household types, it becomes obvious that households with 2 and more children and single parents are significantly "over-represented" with the lowest incomes.

The threat of poverty also applies to 2 types of families who are significantly more jeopardized by poverty. These are single parents without earned income (50 % risk of poverty!) and families (extended households = MPH) with 3 or more children (approx. 16 % risk of poverty) (see table 1).



Despite social-security payments, a total of 457,000 people of households with children were threatened by poverty in 1999!

There are various reasons for this poverty in incomes (= threat of poverty) of children and adolescents or families. They are to be explained below on the basis of the 2 types of families that are mostly concerned:

The status "**single parent**" brings about that one parent (mostly women – 87 %) bear the whole (financial) load. Divorces or separations often result in income losses (maintenance support is not sufficiently or not at all paid; gainful employment must be ended or reduced) or increased strains (living costs must be borne alone). Divorced and unmarried people are more prone to poverty than widows and widowers as they are less covered by the social security system.

The more children there are to be cared for and the younger they are, the higher is the risk of poverty as there are fewer possibilities for accepting gainful employment due to the lack of sufficient caring institutions for children below the age of 3 years. In Austria, there is a lack of child care institutions.

The high rate of single parents working part time, interruption in employment, no incomes due to unemployment, lower wages and salaries of women and transfer benefits that can often not prevent poverty (child allowance) when compared to the official poverty threshold tighten the whole situation.

The reasons for **families with 3 or more children** are often unemployment, the lack of child care institutions, but also excessive indebtedness. Altogether, the "income capacities" of large families are limited, often there is only one person earning an income for at least 5 others.

There are various reasons contributing to child poverty and consequently, a similarly manifold package of measures for their reduction is essential.

### 6.2.3. Non-monetary aspects

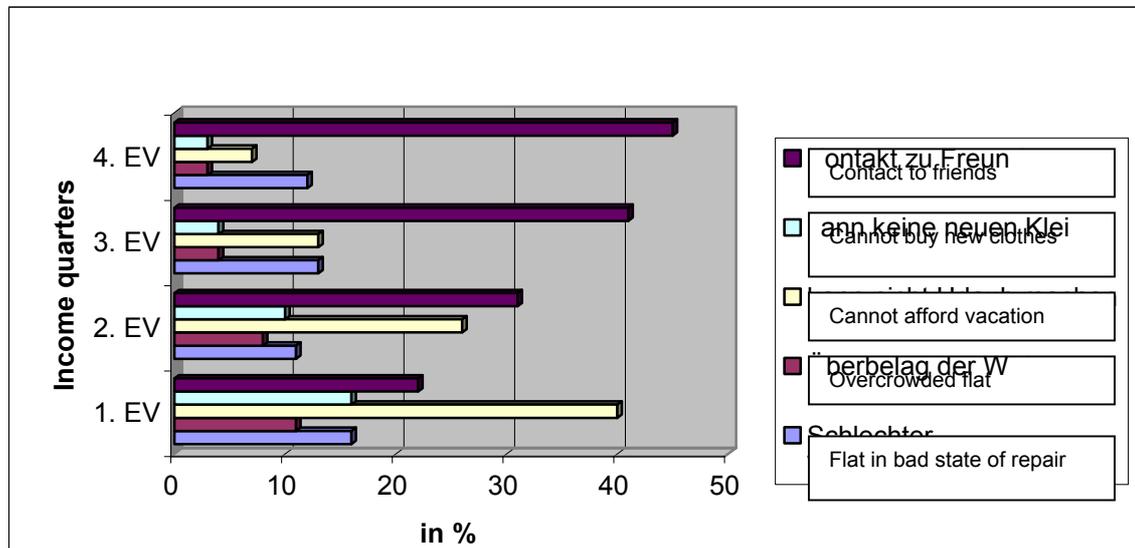
Children growing up in poverty-risk households face disadvantages concerning their development at school and vocational education, family relationships and interactions, leisure time and interaction in groups of the same age. These burdens hamper their emotional, social, somatic and physical well-being.

Disadvantages in schooling and vocational education can be proved by the fact that there is still a close connection between the social ranking of the parents and the educational path chosen for the child. Poverty in the families of origin is therefore continued in the next generation.

Many adolescents have only completed compulsory school or do not finish vocational training. 11 % of compulsory school students do not start vocational training and a further 9 % of all adolescents drop out of their training. Facing the fact that poverty, or the risk of poverty is closely connected to low educational standards, these above figures underline the close connection in its development.

Moreover, further research especially concerning children would be necessary in relation to aspects of "time poverty (time spent with children)" and "poverty (quality) in relationships"

**Table 2: Participation opportunities of children - selection**



### 6.2.4. Necessary measures

The multi-dimensionality of the phenomenon of poverty becomes very clear when focusing on poverty of children and adolescents. When young people are concerned, there are many corresponding poverty-determining factors (income, psychical, social, cultural-social etc.). Not forgetting that child and youth poverty may never be judged without considering their families (employment situation etc.).

**The NC demands:**

- A basic social security model for families (“demand-oriented basic social security“/ “bedarforientierte Grundsicherung“) is required, which on the one hand removes gaps regarding the “status poverty” (foreigners with limited access to social security) and “transfer poverty” on the other hand (allowances below the poverty level). Hence, basic financial security for children and youth would be integrated in this system.
- As basic social security can only serve to balance malfunctions in other systems (employment market, education, preliminary social security systems etc.) but not to replace them, all other related measures are to be reviewed that should be given priority for being implemented as far as poverty prevention is concerned. Basic conditions and incentives to assure gainful employment for parents (above all mothers) must not call basic social security into question but must be coordinated - as systems complementing each other. This is also shown in the discussion about the recently introduced “child allowance system“ (“Kinderbetreuungsgeld“), which has been criticized for several reasons, one being that following this allowance re-entering into the job market may be more difficult particularly for women.
- The extension of qualified and financially achievable child care institutions with flexible opening hours for all age groups: (increased) support for child groups, nurseries, after-school care institutions, company care institutions and socially-secured day care personnel.
- Support for re-entering the labour market and further training measures.
- Gender equality - equal remuneration for the same jobs, especially for women/mothers (and therefore children).
- Specific health planning and offers for persons who are “weaker” - from the social point of view. Emotional negligence, wrong nourishment and other burdens (e.g. smoking parents - during childhood this affects growth and development, partially even before birth), thereby creating the basis for ill health in adulthood.
- Sufficient advice and support institutions for families/children in crises (family counselling, psychological care, educational counselling etc.) should be provided.
- Measures to reduce the disadvantages of children from poor households in the educational sector (which still exists). In this sense, special attention should be paid to pre-school education - its positively influencing further educational paths. A further target would be the reduction of the number of students leaving compulsory schools without undertaking vocational training.
- Equal opportunities for migrants in terms of access to social welfare (family allowance, social welfare, social housing, labour market, etc.) - as especially foreign children and adolescents are affected by poverty and social exclusion.
- General access for socially “weak” persons to housing subsidies / state subsidized flats. This would especially ease the situation for families with many children.
- Measures against youth unemployment.

## **7. Education, Leisure and Cultural Activities**

*Corresponding to chapter 9 of Austria's State party Report 2002*

### **7.1. The right to education**

Since the last report, two federal government measures, which especially cause concern amongst the members of the NC in relation to the quality of the educational systems in general, as well as to the free and equal access to education:

- Increase of the maximum number of students per class: this measure – bringing the number of children up to 36 children per teacher – renders individual support for individual students impossible. Educational experts have been advocating for years that the maximum number of students per teacher should be decreased instead of increased.
- Introduction of tuition fees for tertiary education: the Winter Semester of 2001, saw the introduction of a compulsory fee of € 363,36 per student/per semester. This measure makes access to universities more difficult, above all for students from lower and medium income classes, students with children, students from large families etc. This measure is not compatible with the demand for equal opportunities in the education system.

### **Schools for Living!**

For children, school must be places free of fear where learning means an enjoyable experience. Girls and boys should regard school as a comprehensive living sphere in which they may simply be children and where their dignity as human beings is recognized.

## **8. Special Protection Measures – Children in Distress**

*Corresponding to chapter 10.1 of Austria's State party Report 2002*

### **8.1. Under-aged aliens in Austria**

Pursuant to Art. 2 of the CRC, the rights of this Convention may be applied to all children without exception and the member states oblige themselves to protect all children from any form of discrimination. According to the Convention, special protection is granted to refugee children (Art. 22) and children seeking refugee status, above all for unaccompanied minor refugees (UMR).

#### **8.1.1. Minor migrants**

In 1997, Austria adopted a new Aliens Act ("Fremdengesetz", FrG). In the year 2000, some changes were made regarding the procedure for the granting of entry and residence permits (§ 14 (1) FrG "Minor aliens who have reached the age of 14, may apply for an immigration or residence permit themselves. ..."), and the issuing of "alien passports" ("Fremdenpass") for minors (§ 77 (1) FrG "Minor aliens who have reached 14 years of age may apply for an aliens' passport in their own right. In such a case, the consent of the legal representative is a precondition for the issue of the passport...") and when entering children's names into the passports of aliens (§ 78 (1) FrG "Upon application of one of their parents or a person responsible for their education and care, minors who have not yet reached the age of twelve years and do not possess a travel document of their own may be entered in the aliens' passport of one parent ..."). No changes were made to the much-criticized concept of granting permanent residence permits only within an annual contingent ("quota system") - which continues to apply even for family reunification.

In 1997, 17,320 people were given admission to migrate to Austria, however, in 2003 the quota number was reduced to 8,070. Among this contingent of 8,070 permits for

2003, there are 5,490 for family members of already settled aliens (§§ 20 para. 1 and 21 para. 3 FrG). This is much too low for all applicants for family reunification, creating an extensive waiting period in some of the Länder (Upper Austria up to 5 years, Vienna 2-3 years). This fixed quota for reuniting families is problematic compared to Austria's international obligations - Art. 10 CRC, Art. 8 of the ECHR, which guarantees the right for respect towards private and family life:

*Art. 8 para. 2: There shall be no interference by a public authority in the exercising of this right except such as is in accordance with the law and as is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

§ 21 para. 3 FrG 1997 regulates family reunification for non-EU/third-country nationals: "Subsequent immigration of the family members of third-country nationals who settled permanently in the federal territory prior to January 1, 1998 shall be restricted to their spouses and children". The Constitutional Court ("Verfassungsgerichtshof"/ VfGH) has abolished the added age limit of 14 years for applications of children in 2000, with the justification that "even after the age of 14 there may be a relationship of dependence between children and parents." At the end of the year 2000 (coming into force: 1/1/2001), however, the Austrian government set a new age limit at 15.

Concerning the residence status of migrants the FrG 1997 has brought significant improvements and security. Nevertheless, one problematical issue remains in relation to adolescents in conflict with the law: they are protected from deportation only if they have already grown up in Austria and have already been lawfully residing here for several years.

#### 8.1.2. Unaccompanied Minor Refugees (UMR)

Although there are specific protection provisions for UMR in the Aliens Act/FrG, and the Youth Welfare Act, which applies to all minors staying in Austria, UMR are disadvantaged in regards to other minors in Austria, in almost all areas.

According to the Ministry of Internal Affairs (BMI), from 1/7/2001 to 31/12/2001 altogether 1,741 unaccompanied minors applied for asylum in Austria. This number, however, is to be handled with care due to the fact that for many UMR, Austria is not the final destination:

- 50 % of all UMR staying in the refugee camp Traiskirchen leave the camp within the first week.
- The average number of UMR in Burgenland (per date due) lies between 25 and 35. In the year 2001, however, about 300 UMR had been newly registered.

Throughout Austria, according to the BMI, during the first half of the year 2001, 6 legal procedures for granting the right for asylum of UMR were concluded positively and 17 negatively. The low number of procedures clearly indicates the long duration of asylum procedures.

Legal capacity of asylum seekers according to § 25 of the Federal Act on Granting Asylum (AsylG) was lowered to 18 years in the law amending the Asylum Law in 2001. Unaccompanied minors over 14 years of age are allowed to submit an

application for asylum. The competent youth welfare officer may then act as legal representative in the procedure for granting the right of asylum. Interviews with minor asylum seekers may not be conducted without their legal representative (§ 27 para. 3 AsylG). Therefore, the Asylum Law recognizes that minors need special protecting. In practice, however, this regulation is often fulfilled insufficiently and to varying degrees.

Due to the large numbers of asylum procedures, interviews are rather quickly dealt with. In some of the Länder, interviews with several UMR are brought together on one day. This is supposed to save travelling time for the representative of the youth welfare office, but, in fact produces increased time pressure for the interviews taking place.

Many adolescents describe the interviewing atmosphere as being a strain. The situation at the Federal Asylum office can evoke painful reminders of incidents of interrogation and intimidations which the adolescents had experienced in their own countries. The interviewees must plausibly describe their persecution and escape. In doing so, they partly re-live experienced despair, stress and anxiety. Non-verbal expressions – deprecatory gestures, shaking of the head et al. and comments from the officials (e.g. about the age of the interviewee), which are translated only partly, adds to an increased feeling of uncertainty of the applicant.

Representatives of youth welfare agencies do not always offer the necessary resources enabling asylum seekers to be adequately represented. In the district of Baden, a single legal representative is available to represent more than 1,000 UMR in their asylum procedures. In 2002, the Competence Centre (for supporting UMR) in Vienna serviced more than twice the number of procedures than in 1999. Personal resources, however, had only been slightly increased. Although individual representatives are very committed to their tasks, they cannot in the long run compensate these structural short-comings.

According to the Aliens Act, legal capacity is attained at the age of 16.

- **According to the National Coalition**, this premature legal capacity “avoids” Art 1 of the CRC, which determines that there is a need for protection until the age of 18 - the age limit should therefore be set to 18. This interference is especially grave as according to Art. 20 and Art. 22 CRC children deprived of their family environment shall be entitled to special protection.

### 8.1.3. Custody pending deportation

It is still legal in Austria to take minors into custody pending deportation, although § 66 of the Aliens Act 1997 provided that in principle “less severe means” should be used. On 9 December 1999, the BMI issued a decree (file no: 31.340/12-III/16/99) ruling that custody pending deportation for minors must only be used as the last resort. Nevertheless, custody pending deportation continued to be applied in the following number of cases: 129 UMR in the 2<sup>nd</sup> half of 2000, 217 in the 1<sup>st</sup> half of 2001, 278 in the 2<sup>nd</sup> half of 2002 and 47 in the 1<sup>st</sup> half of 2002 (reply from the Minister of the Interior (4236/J) upon parliamentary request).

This continued practice prompted the Human Rights Advisory Council (established as an independent monitoring and consultation organ at the Ministry of the Interior) to prepare a report on minors awaiting deportation and to present 43 recommendations

to the Federal Ministry of the Interior. In its report, the Council comes to the conclusion that imposing custody pending deportation on minors and its current manner of implementation contradicts the international minimum standards for the treatment of imprisoned children and adolescents.

Regardless of the recommendations made by the Human Rights Advisory Council, custody pending deportation is still allowed even after the FrG was amended in 2002. Just to the contrary - the use of "less severe means", introduced with the Asylum Act in 1997 (§ 66 FrG), was amended in 2002 by an additional paragraph now allowing for detention even within the framework of less severe means. This contradicts the meaning of "less severe means" which should be provided as a prevention of detaining minors. This amendment mainly affects minors as usually less severe means apply to them.

#### 8.1.4. Accommodation

Accommodating UMR is still a problematical issue. Several facilities have been established during the past years which mainly serve to accommodate and service UMR. Nevertheless, the number of people is increasing and as a result, UMR are often not adequately accommodated or sometimes there is no accommodation at all.

Mostly, they are placed in federal care ("Bundesbetreuung"). On 31/01/2002, there were 376 UMR accommodated in federal refugee camps. The Federal Care System supplies accommodation, food, social insurance (health care) and some pocket money. Special pedagogical care is not provided. Minors can be moved elsewhere or dismissed overnight.

Accommodation for UMR outside the Federal Care System generally does not meet the usual youth welfare standards (with a few exceptions), too.

#### 8.1.5. Education

Adolescents not having completed 9 years of schooling, as is compulsory in Austria, are obliged/allowed to attend a compulsory school providing general education. This also applies to UMR. As in many cases, documentary proof of the completion of 9 years of schooling is not possible; as a result students up to the age of 15 are generally accepted to attend compulsory schools. The majority of UMR, however, are older than 15 and therefore no longer attend schools. They may be admitted to secondary schools as extraordinary students, when all suitable "ordinary" students have already been admitted. The presence of UMR, however, is often regarded as an overburdening of schools.

Huge problems arise when access to vocational training and legal forms of employment are searched for. According to the applicable rules of the Foreigner's Employment Act (Ausländerbeschäftigungsgesetz, AuslBG), legal employment is almost impossible for asylum seekers. Access to the labour market is only made available upon prior application for a Restricted Work Permit, which depends on free quota, replacement procedures, and Regional Advisory Board decisions. An apprenticeship is also subject to the same restrictions (see AuslBG 2002). In practice, applications for working permits are often rejected by the Public Employment Service (Arbeitsmarktservice), although there are huge regional differences in dealing with these issues. In Vienna and Lower Austria UMR are rarely given working permits, whereas in Upper Austria chances are better.

**The NC demands** improvement of the situation of minor aliens in Austria:

- The child has a clear right to its family – family reunification must therefore not depend on annual residence permit quotas.
- According to Art 1 CRC, a "child" is a person under the age of 18 - there must be no age limitation within the framework of family reunifications.
- Delinquency of minor aliens must not result in deportation.
- The Aliens Act sets the age of legal capacity already at 16 – the NC calls for the increasing of this age to 18 in the best interests of the child.
- No custody pending deportation for minor refugees!
- Unaccompanied minors need special protection as provided for in the CRC.
- The establishing of a wide network of "institutions for initial care and treatment" suitable for children and adolescents. These are to provide the necessary basic - medical, social and legal care for UMR, and to determine the individual need for care and aftercare.
- Accommodation and care in adequate institutions according to the relevant standards of the youth welfare system – there must not be any "second class adolescents".
- Access to German training courses, education and work. This right must not be denied for reasons of costs or legal regulations.

**9. Special Protection Measures – Children in Conflict with the Law**

*Corresponding to chapter 11 of Austria's State party Report 2002*

**9.1. Juvenile Justice**

By lowering the general age of majority from 19 to 18 years, the age limit in the Juvenile Court Act (Jugendgerichtsgesetz) followed suite - which should not have been seen as a necessary consequence. However, it means that juvenile justice standards applies only to adolescents from 14 to 18. Still there are now some special regulations for "young adults" (ages 18 - 21), including:

- No sentencing for life imprisonment prior to the age of 21,
- Opportunity of pleading for extraordinary mitigation, according to § 41 of the Criminal Code (StGB) until the age of 21 has been reached,
- "Adolescence" is a reason for granting mitigation,
- Reorganization of this new law and applying youth penal laws for young adults.

**The NC criticizes:**

- Experts see the age adjustment as not being necessary!
- The law-making process was problematic - in principle, experts hearings should be held first, than the bill should be drafted (and not the other way round).
- Furthermore, the development of a comprehensive penal code for young adults (such as already existing in some European countries) would be necessary.

**Judicial criminal statistics (source: ÖSTAT)**

<b>1998</b>	<b>Adolescents</b>	<b>Adults</b>
Average unconditional imprisonment	245 days of imprisonment	385 days of imprisonment

Cost of personnel and material per day	€ 110,--	€ 70,--
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The total of 18-year-old convicted juveniles is about 40 %, with a tendency towards unconditional imprisonment being used for older adolescents. The Federal Government expects that applying regular penal laws for former adolescents (due to the change of the age limit) will cost additional 655,000 Euros per year.

After heated political and public debate, the Vienna Juvenile Court, however, was dissolved in July 2003, which removed a central element of the internationally recognized Austrian model of juvenile justice. Matters of jurisdiction for juvenile offenders as well as the juvenile prison system were integrated in the general court organization. Massive problems in handling juvenile delinquents have now resulted.

Case study: in August 2003, a 14-year-old Rumanian adolescent (imprisoned in the Vienna-Josefstadt Prison for committing professional theft - which is a problematic offence in itself especially for adolescents; value of the goods: slightly over € 50,--) was raped by three other adolescents. This, however, seems to have been only the tip of an iceberg, because just shortly after the juvenile court had been dissolved, another adolescent was imprisoned and isolated in a "disciplinary cell" for four days. The Ministry of Justice regretted the incidence, but concluded that such incidences cannot be prevented.

The NC maintains that the state is obliged to provide adequate supervision so as to prevent (more) attacks on imprisoned adolescents.

A further problem is that this prison is massively overcrowded. It was originally planned for about 900 prisoners, but currently, there are more than 1,200 detainees. Adult areas have been reduced to create room for adolescents – according to internal information, there are almost no free adult areas - all lounges have been converted to cells to create room (Quote: "We are no hotel and therefore, we cannot reject anyone"). Bunk beds are increasingly used as otherwise, there would be no room at all. There is not enough qualified personnel. Ensuring relevant standards, such as adequate occupational opportunities, are impractical/virtually impossible.

In all cases, inadequate adolescent and adult segregation clearly contradicts CRC standards (Art 37) – installing an extra juvenile court (including its own prison administration) must be given top priority. Additionally, the imprisonment of juvenile offenders must only be used as a last resort.

#### **The NC therefore demands:**

- A separate juvenile court with clear and small units
- An independent and adequately qualified youth prosecution service
- Juvenile Court Assistance Service throughout Austria – including guardianships
- More personnel and financial resources for adolescents, meaning that instead of imposing prison sentences more focus on crime prevention and re-socialization
- Specialized mandatory training for judges and for public prosecutors in juvenile justice cases
- Extension of the monitoring and advisory competences of the independent Human Rights Advisory Board to the judicial/prison system (so far, competence is limited to the police/ Federal Ministry of the Interior)

- Assurance of resources for psycho-social care including qualified interpreters who speak the mother tongue of the prisoners (currently, only 16 % of all prisoners are Austrians)
- Regular checks on the suitability of the measures taken (including alternative accommodation)
- Amending the Juvenile Courts Act (Jugendgerichtsgesetz): prison standards (outdoor activities, sports and occupation) must be more clearly defined as legal entitlements.

## **10. Special Protection Measures – Sexual Violence and Exploitation of Children**

*Corresponding to chapter 12 of Austria's State party Report 2002*

### **10.1 Sexual Violence**

Austria is one of the few countries which guarantee the principle of non-violent education by law. Nevertheless, based on empirical research, preventive measures and awareness-raising about this basic right for children and adults is still urgently required.

In its First NC Report, the NC joined the demands of the "Salzburger Arbeitsgemeinschaft gegen sexuelle Gewalt am Kind" ("Salzburg Working Group against Sexual Violence against Children"). In the year 2000 an assessment was made to see whether the demands had already been met. Unfortunately, there are still some important points that need to be addressed:

- **Education, Training and Case Supervision**  
Education, training and case supervision for all experts involved in these issues (executive authorities, court, medicine, youth welfare, etc.) aiming at achieving awareness, reflection, transparent decisions and interdisciplinary cooperation is still a significant demand. In practice, funding is a sheer irresolvable problem – here the government is to set appropriate measures.
- **Free Legal Advice and Psycho-Social and Legal Support in Proceedings**  
Since 2000, the Ministry of Justice has been granting state support; numerous victim protection organizations now offer psycho-social and legal support in proceedings at no charge for victims of (sexual) violence and their families. A platform and an inter-ministerial group worked on quality assurance and unification of measures to be taken. Due to a lack of information, it is still impossible to know about all victims. Therefore, the demand for anchoring psycho-social and legal support in legal proceedings is still valid.
- **In criminal procedures, judges and experts need to inform children in a manner suitable for them about the principles in court and the right of relief from the duty to testify; the duration of proceedings is to be reduced.**
- **Experts: There is repeatedly a shortage of experts and a lack of non-transparent nomination procedures and non-standardized psychological advisory opinions.**
- **Often, delinquents are released from prison at an unexpectedly early point in time for victims – victims and family members need to be prepared.**

- Therapy programmes for delinquents: Most prisons just "hold" delinquents for the term of their imprisonment. Therapies preventing recurring delinquency cannot be offered – often due to a lack of funds.
- Compensation and funds for victims: As in many cases, delinquents will not provide financial compensation - procedures for getting government help should be simplified and money made available be increased.
- Establishment of victim support groups for children in all hospitals treating children.

## 10.2 Sexual Exploitation and Child Trafficking

Commercial sexual exploitation of children through pornography, prostitution and "child sex tourism" constitute a fundamental violation of children's rights. It's a crime consisting first of the immediate sexual abuse of the child itself, and of, second, transfer of money or other "benefit" to the child or a third person. Child trafficking must be seen as one particular abhorring form of exploitation, treating the child like an commodity in the sex market.

The UN Convention on the Rights of the Child provides for fundamental obligations by all States parties for protection of children from any kind of sexual exploitation; these standards have been further elaborated by the 2000 Optional Protocol on sale of children, child prostitution and child pornography. Austria has ratified the Optional Protocol in May 2004, along amendments in the penal code; however, there is still urgent need for continued comprehensive implementation of the Protocol.

### The NC demands:

- Implementation strategy for the Stockholm Agenda (1996) and the Yokohama Global Commitment (2001), within the framework of the drafting process of the Austrian National Plan of Action for Children's Rights started in 2003, and by taking into account the Austrian government's Action Plan against child abuse and child pornography on the internet (1998);
- Research and analysis on scope and dimensions of sexual exploitation in relation to Austria, including an assessment of the existing territorial legislation
- Implementation of the Code of Conduct for the Protection of Children from Sexual Exploitation, in cooperation with the tourism industry
- Assistance, psycho-social support and residence permit for children and adolescents as victims of sexual exploitation and trafficking

## 11. Development Cooperation and International Cooperation

*Corresponding to chapter 13 of Austria's State party Report 2002*

### Education is not a merchandise – democratization instead of privatization

Access to quality education must be granted to all girls and boys in poor and rich regions of the world and must not depend on their parents' incomes. Common interests and best quality, solidarity financing and democratic participation must be assured all over the world – in opposition to the interests of profit-oriented private education providers.

- **The NC understands** this demand as support to the Stopp-GATS campaign.

### **Increased Support for Development Education and Public Awareness**

A fair world with fair chances of living for all people of this world can only be achieved when existing economic structures and powers are changed. Development education focuses on rising the awareness that there is a connection between daily experiences of people and global events, decisions and coherences. "Global learning" aims at arousing interests and extending social, cultural and political competences with one view to ONE WORLD. Offers for intercultural learning are to promote understanding and appreciation for other cultures.

- **The NC calls for** increase of funds for the development of education and public awareness in Austria.

### **0.7 % GDP for Public Development Co-operation**

We regard the implementation of this claim as an Austrian contribution to the implementation of the claim for access to education for everyone. Currently, one cannot speak of global fairness. On the contrary, the gap between the rich and the poor has widened during the past years.

#### **The NC demands:**

- Austria to finally implement the internationally agreed-upon aim of increasing the funds for public development cooperation to 0.7 % of the GDP (currently 0.22 %).
- The government is to provide a binding step-by-step strategy for achieving these objectives by 2010, thereby contributing effectively to the achievement of the millennium targets.
- Within the budget of the development cooperation, the share for program and project support (currently about 20 %) must be significantly increased.
- Furthermore, we call for improved cooperation and consistent strategies for the Austrian Development Cooperation (EZA). Present EZA resources should be pooled and jointly administered.
- The government is called upon to start a structured dialog with all the actors involved.

## Annex 1

### List of National Coalition Members

- Akzente Salzburg
- Austrian Boy Scouts and Girl Guides Movement
- Austrian Committee for UNICEF
- Austrian Federal Youth Representative Council
- Austrian Kinderfreunde / Red Falcons
- Catholic Children Movement of Austria [“Katholische Jungschar Österreichs”]
- Kinderbüro [Children’s Office] Graz
- Kuratorium Kinderstimme
- Ludwig Boltzmann Institute of Human Rights
- Ombudsoffice for Children and Youth Burgenland
- Ombudsoffice for Children and Youth Carinthia
- Ombudsoffice for Children and Youth Lower Austria
- Ombudsoffice for Children and Youth Salzburg
- Ombudsoffice for Children and Youth Styria
- Ombudsoffice for Children and Youth Tyrol
- Ombudsoffice for Children and Youth Upper Austria
- Ombudsoffice for Children and Youth Vienna
- Ombudsoffice for Children and Youth Vorarlberg
- Pro Juventute
- SOS Children’s Villages

## Annex 2

### Children's Rights Projects of NC Members from 1992 - 2003 (Excerpt)

Note: The activities listed here were mainly implemented due to the commitment of all the institutions mentioned below and not as a result of a comprehensive national child and youth policy!

#### Akzente Salzburg

- Regular "youth district talks" in all districts with students
- Financial state support of the regional government for playground planning with the participation of children
- Salzburg Youth Federal State Parliament
- Establishment of the girls' office "make it" – for the promotion of girls' interests

#### Arbeitsgemeinschaft Kinder- und Jugendpartizipation (Working Group for the participation of children and youth)

- 1999 Austrian-wide expert meeting "young-loud-unpolitical" about youth participation and youth politics
- 1998/99 Development of Salzburg's Juvenile Law with the participation of adolescents
- 1999/2000 Election of youth representatives by 12 – 19 year-olds in Salzburg's communities
- 2002 Creation of a participation homepage by the ARGE Partizipation Österreich (working group): [www.jugendbeteiligung.cc](http://www.jugendbeteiligung.cc)
- 2002 Creation of a leaflet about basic principles, standards etc. of children and youth participation by the ARGE Partizipation Österreich

#### Austrian Ombudsoffices for Children and Youth (KiJA)

##### Lower Austria:

- Mediation pedagogics: Conflict mediation in the 3rd and 4th classes of primary schools in Lower Austria (started in January 2002 and lasts up to now) with the two mediation institutions Ko.m.m. and A.M.P in cooperation with the Family Advisory Department of the Office of the Provincial Government of Lower Austria
- Children's film festival with the motto "Konflikte sind zum Lösen da" together with the Medienpädagogischen Beratungsstelle of the Lower Austrian Landesakademie
- Project KinderRechteKoffer in cooperation with UNICEF Austria and the provincial government of Lower Austria (consisting of a pedagogical children's music theater – including care after the event in the form of discussions with the students by a staff member of the Lower Austrian Ombudsoffice, work with the trick box, KinderRechteKoffer – teaching material for working on six selected basic rights)

- Cartoon awards show in the Lower Austrian regional studio of the ORF (students make their own cartoon with the topic conflicts and solving conflicts) together with the
- Cartoon award in the ORF regional studio of Lower Austria (students create their own cartoon with the topic conflicts and conflict resolution) together with the Medienpädagogischen Beratungsstelle of the Lower Austrian Landesakademie
- Designing the new rooms of the Lower Austrian Ombudsoffice by students of the BRG/BORG St. Pölten (Mosaic) and the financial support of the provincial government of Lower Austria
- Adaptation and distribution of the leaflets "Gewalt an Kindern" and "Sexuelle Gewalt an Kindern"
- Peace drawings/drawing competition and exhibition
- Creation of the homepage of the Lower Austrian Ombudsoffice for Children and Youth by students of the HTL Mödling
- Nursery-school book
- New logo and new material
- Children's rights day in November 2002 with UNICEF Austria and Thomas Brezina
- Surveys: "Scheidung – Kinder zwischen den Fronten" and "Scheidung – Kinder als Spielball zwischen Eltern und Gerichten"
- Meeting and press tour: "Jugendheime – gesellschaftliche Notwendigkeit und Chance für Kinder und ihre Familien"
- Balloon festival: Sending postcards on children's rights – the card traveling far most was returned from the Ukraine.
- Model project and press conference: children-friendly consulting hours
- "Kinder im Krieg" (1996): Action day on the topic child soldiers, and children as war victims with contributions of 12 schools
- Information meeting: "Delinquenz als Chance" for judges and public prosecutors
- Exhibition "(K)ein sicherer Ort: 1997 in Amstetten and Wr. Neustadt and in 1998 in Hollabrunn, with weekly social program (panel discussions, expert lectures, readings, self-defense classes, films, workshops)
- Free-of-charge legal support in proceedings for minor victims of violence (in cooperation with the Lower Austrian bar association and the provincial government of Lower Austria)
- Survey (1999) "Jugendschutz 2000" and 2000 "Freizeit – Freie Zeit"

### Salzburg:

- Workshop informing on children's rights for 9 to 12 year-old students of all school types in the province of Salzburg (about 100 classes with more than 2,000 students since autumn 2001)
- Events for the World Children's Day (last Friday in September) annually (since 1994)
- Distribution of the postcard booklet "Children have Rights!" in school classes and children's institutions (approx. 5,000 pieces per year)
- Salzburger Förderungspreis for children and youth research (1995-2002) and the Bank Austria Creditanstalt scholarship for children and youth research (since 1999)
- Participation in the International Day of Children's Rights (20 November) since 2001

- Exhibition "(K)ein sicherer Ort" – Sexual violence affecting children – prevention, recognition, help
- Free-of-charge legal support in criminal proceedings for children and adolescents affected by violence and abuse (in most of the Austrian Länder)
- Peer mediation at schools, conflict resolution at the responsibility of students
- "Call and mail" – Adolescents give advice to adolescents

#### Styria:

- all\_rights – Deine Rechte im Netz – answers to the most frequently asked questions of adolescents ([http://www.jugendanwaltschaft.at/all\\_rights/index.htm](http://www.jugendanwaltschaft.at/all_rights/index.htm))
- Study day for teachers (1999, 2002) to prepare children's rights projects for schools
- Focus groups with adolescents on the topic "Wählen mit 16 Jahren"
- Participation in the Styrian youth provincial legislature (Jugendlandtag, 2001)
- Co-initiator of the competition "GEMEINdeSAM - the most children-friendly communities of Styria" (2000+2003)
- Publication of an Advent calendar on children's rights (2001 + 2002)
- KiJA ambassadors at schools inform about the ombudsoffice and children's rights

#### Tyrol:

- Exhibition: (K)ein sicherer Ort 1998 in Innsbruck, Imst, Lienz and Wörgl
- Working group "Schulverweigerer", "Schulsozialarbeit", "Gesunde Schule" (annual symposium), "Partizipation"
- School mediation
- Youth plans town – participation of young people in urban planning and development
- Social learning
- Initiative group Tyrol of the Austrian Kinderschutzbund – Congress on parent education 2001
- Youth Protection Law
- Day of children's rights in 2002 – drawing competition and children's festival in the Landhaus
- Leaflets "Gemeinsame Obsorge" and "Was Eltern wissen wollen"

#### Upper Austria:

- Exhibition "(K)ein sicherer Ort" – Sexuelle Gewalt an Kindern – Vorbeugen Erkennen Helfen
- Free-of-charge legal support in criminal proceedings for children and adolescents subject to violence and abuse (in most of the Austrian Länder)
- Student calendar "Alles was Recht ist"
- Peer mediation at schools, conflict resolution at the responsibility of students

#### Vienna:

- "Call and mail" – Adolescents give advice to Adolescents
- School mediation project "Streithelfer"
- Child-friendly administrative units in Vienna
- Youth Protection Law
- School mediation
- Working group Partizipation

## **Catholic Children Movement [Katholische Jungschar, KJSÖ]**

- Annual action 2002 “Platz da! Kinder brauchen Raum – in erwachsenen Köpfen!“ Working groups, parish activity, church service – model for 80,000 children of the children of the Catholic Children Movement and a “play tour“ with children and politicians of the Federal parliamentary parties on 19 Nov. 2002, Vienna
- Annual action 2001 “Freies Ohr für Kinder“ concerning article 12 CRC
- Annual action 2000 “Kraftstoff Gruppe“ in compliance with article 15 CRC on the importance of groups of children of the same age
- Reports on the state of children from 1992 – 2000:
  - BLK 1992 – “Kind und Kriminalität“
  - BLK 1993 – “Partizipations- und Mitbestimmungsmöglichkeiten von Kindern“
  - BLK 1994 - “Kinder als Zielgruppe psychosozialer Dienste“
  - BLK 1995 – “Kinder in Tourismusbetrieben“
  - BLK 1996 – “Jede Ecke will ich gehen – MigrantInnenkinder in der Freizeit“
  - BLK 1998 – “Von Spielgefährten, Arbeitstieren, Sportlern und anderen Vätern – Wie Kinder ihre Väter erleben und wie Väter sich selbst sehen“
  - BLK 2000 - “Freizeit mit Hindernissen – Wie Kinder mit Behinderung ihre Freizeit erleben, die Sicht ihrer Eltern und was Anbieter von Freizeitaktivitäten dazu sagen“
- Study day of the KJSÖ at the plenary meeting (“Lobby und Lebensraum für Kinder“– 10 years of CRC
- Continued gender-sensitive work in the KSJÖ:
  - Means: “...weil ich ein Mädchen bin!“ (2002) and “Mannsbild“ (2001), trainings, publications about this topic
- Information campaign to the Children’s Summit UNGASS and the subsequent process in Austria ( a member of the KSJÖ participated in UNGASS)

## **Kinderbüro Graz [Children’s Office]**

- Workshops in schools about children’s rights
- Workshops for teacher education about children’s rights
- Children’s rights newspaper for children from 6 – 14 years
- Project on children’s rights: Kinder haben RECHT(e)!; in 2000 with schools from Graz
- Project on children’s rights: Overcoming barriers and coming together, concerning the integration of handicapped and migrant children, 2001
- Round Table: What do children’s rights mean in everyday life? Panel discussion with experts from school, adult education and research in 2002
- Public lectures about children’s rights: Helmut Sax, Gudrun Berger, Wolfgang Benedek
- Video on children’s rights: Kinder haben Rechte!

**Ludwig Boltzmann Institute for Human Rights (BIM) and Service Center Human Rights Education**

- Children's rights as a matter of scientific research (e.g. for including children's rights into the constitution), legal expertise (e.g. for accommodating unaccompanied minor refugees)
- Consulting on children's rights for Ministries, governmental and nongovernmental institutions and organizations
- Lectures and trainings on topics concerning children's rights
- Service Centre for Human Rights Education ([www.humanrights.at](http://www.humanrights.at)), e.g.:
  - a series of workshops "Recht hat jede(r)!!" - Trainings on everyday cooperation (topics so far: responsibility, conflict resolution, human dignity and respect; together with the WUK Kinderkultur, Vienna), as well as workshops about children's rights at schools
  - publication of the newsletter "Teaching Human Rights"
  - antiracist peer group education/antiracism training in school life (within the framework of the ADL programme "Eine Welt der Vielfalt", in cooperation with the BIM Service Centre for Civic Education, Asylum Coordination Austria and the ARGE Jugend gegen Gewalt and in cooperation with the European Peer Training Organisation)

### **Social democratic Children Movement (Österreichische Kinderfreunde) and Red Falcons Austria**

- 1999: Action day for children's rights to celebrate the 10th anniversary of the UN CRC in Vienna with 1,000 participants from all over Austria.
- 2000: First Street Parade for children's rights in Linz with 9,000 participants from all over Austria – has been celebrated annually since then
- 2000: World's Children International Conference of the IFM (International Falcon Movement) with workshops on the individual articles of the Convention on the Rights of the Child, great final presentation in Vienna's City Hall and Street Parade, more than 1,500 participants from 32 nations.
- 2000: Children's World Camp in Wiesen, Burgenland with the motto "Catch the future – learn from the past!"; more than 1,500 participants from 32 nations.
- 2001: Participation project "Wenn ich BürgermeisterIn wäre ..." in 4 Länder
- Since 2002 annual award of the Austrian prize for children's rights
- 2003: Exhibition on children's rights in Vienna and Linz
- 2003: Action day on November 20th, : "99 Luftballons für mehr Kinderrechte"
- 2003: Launch for the Österreichisches Institut für Kinderrechte & Elternbildung (Institute for children's rights & parental training)

### **SOS Children's Village**

- The most child-friendly village – holiday action
- Information days on children's rights, discussions, studies, children's parliaments
- Actions to the World Children's Day

## Annex 3

### “QUICK-CHECK”

## Status of Implementation of the 1999 Recommendations of the UN Committee on the Rights of the Child on the situation in Austria (as of January 2004; English only)

UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD  
Consideration of reports submitted by States Parties under Article 44 of the Convention  
Twentieth session

### Concluding observations: Austria UN Doc. CRC/C/15/Add.98 (07/05/99)

1. The Committee considered the initial report of Austria (CRC/C/11/Add.14) at its 507th to 509th meetings (see CRC/C/SR.507-509), held on 12 and 13 January 1999, and adopted\* (\* At the 531st meeting, held on 29 January 1999) the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the initial report of the State party and expresses its appreciation for the clear and comprehensive nature of the report, which followed closely the Committee's guidelines. The Committee also takes note of the written answers to the list of issues (CRC/C/Q/AUSTRIA.1) and the additional information provided to it during the course of the dialogue and immediately afterwards, which enabled it to assess the situation of the rights of the child in the State party. The Committee welcomes the constructive and open dialogue with the State party's delegation, which included a student.

#### B. Positive aspects

3. The Committee commends the State party on its prohibition of all forms of corporal punishment through its 1989 ban on "any type of physical or psychological abuse of children as a means of education" (CRC/C/11/Add.14, para. 256). It also notes additional efforts to increase the protection of children against abuse, including the adoption of a comprehensive list of measures against violence in family and society and of an Action Plan against Child Abuse and against Child Pornography in the Internet. The Committee notes the adoption in August 1998 of a resolution of the European Union Council on Youth Participation, at the proposal of the Austrian presidency.

4. The Committee welcomes the establishment of Ombudsman systems for children and adolescents in each of the nine Länder, and at the federal level.

5. The Committee notes with satisfaction the functioning of a comprehensive pattern of student representation in the school system.

6. The Committee welcomes the adoption of legislation establishing extraterritorial jurisdiction for nationals of the State party involved in the sexual exploitation of children.

#### C. Principal subjects of concern and the Committee's recommendations

7. The State party maintains two reservations affecting articles 13 and 15, and article 17 of the Convention. **The Committee takes note of the commitment of the State party to review its reservations, in the light of the Vienna Declaration and Programme of Action of 1993, with a view to their withdrawal.**

➤ Not implemented. No withdrawal yet, although review initiated already in 1998.

8. The Committee is concerned that the federal system in the State party may on occasion pose difficulties for the federal authorities in their effort to implement the provisions of the Convention while ensuring the principle of non-discrimination, in accordance with the provisions of article 2 of the Convention. **The Committee urges the State party to ensure that the existing mechanisms of coordination and reliance on general constitutional principles are fully utilized so as to protect children fully from any disparity with respect to areas within the "exclusive competence" of the Länder.**

➤ Not implemented.

9. The Committee appreciates the diligent review of existing legislation to examine its conformity with the provisions of the Convention, as requested by a 1992 parliamentary resolution. It notes with satisfaction the State party's commitment to submit to a parliamentary hearing a proposal to incorporate the principles and provisions of the Convention in the Constitution,

➤ No such parliamentary hearing has yet taken place. However, the current government's 2002 Coalition Agreement lists "inclusion of CRC principles in the Austrian Constitution" as one of its objectives (see chapter 1 of the NC Report).

and to invite the parliaments of the Länder to consider the same possibility in the context of regional constitutional reforms.

➤ Only Upper Austria included references to the CRC in the regional Constitution; recently, moves for inclusion also in Tyrol and Vorarlberg.

The Committee remains concerned about inconsistencies between domestic legislation and the principles and provisions of the Convention, especially with regard to the right to family reunification and some rights of immigrant, asylum-seeking and refugee children. **The Committee recommends that the State party take all necessary measures to ensure that all its domestic legislation is in full conformity with the principles and provisions of the Convention, and in particular with articles 9, 10, 20 and 22.**

➤ Despite initial legal review during ratification process, not fully implemented; especially not in regard to articles 10, 20, 22.

10. The Committee is concerned that no governmental body, at the federal or the Land level, seems to have a clear mandate to coordinate and monitor the implementation of the Convention. **The Committee recommends that the State party take all appropriate measures to ensure effective coordination and monitoring of activities relating to the implementation of the Convention, at all levels of government.**

➤ Not implemented - no comprehensive coordination and monitoring structure/body established; coordination only occasionally, e.g. for preparation of States Parties reports, NPA process ("Young rights Action Plan/YAP").

11. The Committee notes that recent budgetary austerity measures have had an impact on children and may, in particular, affect the more vulnerable and disadvantaged groups. While noting the recent decision to undertake a comprehensive reform of family assistance measures, which should lead to improvements in financial help to families through increased allowances and tax deductions, the Committee remains concerned that other budgetary austerity measures introduced in recent years have not been reversed. While the welfare system can be considered generous, article 4 of the Convention still imposes an obligation to seek further improvements, particularly given the comparatively high level of available resources. **The Committee recommends that the State party take all necessary measures to ensure implementation of economic, social and cultural rights to the "maximum extent of available resources".**

➤ Not implemented (see chapter 6 of NC Report).

12. The Committee notes that the State party contributes 0.33 per cent of its gross domestic product (GDP) for international development assistance and has a specific budget line for children-related projects, for example, support to the ILO International Programme for the Elimination of Child Labour. **The Committee encourages the State party to consider allocating a fixed percentage of its international development cooperation funds to programmes and schemes for children.**

➤ Not implemented (see chapter 11 of NC Report).

**The Committee also encourages the State party to strive to achieve the United Nations target of 0.7 per cent of GDP for international development assistance.**

➤ Not implemented (see chapter 11 of NC Report). Only agreement in principle, but no clear time frame, except within EU framework (but more modest goals than 0.7). Establishment of Austrian Development Agency (ADA) in 2004 intended to raise Austria's ODA profile, however.

13. Cooperation with and involvement of NGOs in the implementation of the Convention, including preparation of the reports, remain limited. **The Committee encourages the State party to consider more pro-active measures to involve NGOs in the implementation of the Convention.**

➤ Partly implemented. Positive signal: NGOs invited to participate in "YAP process" for the elaboration of an Austrian Child Rights Action Plan (see chapter 1 of NC Report).

14. While noting initial efforts to disseminate the Convention, the Committee considers that education and training activities for professional groups need to be expanded. **The Committee recommends that the State party renew its efforts to disseminate the Convention, in appropriate languages, both to children and to a broader public.**

➤ Partly implemented. Positive example: CRC brochure for YAP process (but in German only, no minority languages).

It also recommends that the State party undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers.

➤ Partly implemented. Mainly dependent on NGO initiatives.

15. Austrian law and regulations do not provide a legal minimum age for medical counselling and treatment without parental consent. The Committee is concerned that the requirement of a referral to the courts will dissuade children from seeking medical attention and be prejudicial to the best interests of the child. **The Committee recommends that, in accordance with the provisions of articles 3 and 12 of the Convention, an appropriate age and structures for medical counselling and treatment without parental consent be set by law.**

➤ Implemented in terms of legal age - Kindschaftsrechtsänderungsgesetz [Parent Child Relation Amendment Act] 2001 sets age limit (at 14), but less implementation efforts in terms of structural support.

16. The Committee is concerned about remaining instances of gender discrimination. **The Committee recommends that the State party consider undertaking an in-depth study of the ages of sexual consent and sexual relations, taking into account present legislation, its implications and its impact on children in the light of the principles and provisions of the Convention, with a view to ensuring that the legislation is as conducive to the realization of the rights of girls as boys and having due regard to the best interests of the child.**

➤ New legislation in preparation.

17. The Committee regrets that forced sterilization of mentally disabled children is legal with parental consent. **The Committee recommends that existing legislation be reviewed so as to make sterilization of mentally disabled children require the intervention of the courts, and that care and counselling services be provided to ensure that this intervention is in accordance with the provisions of the Convention, especially article 3 on the best interests of the child and article 12.**

➤ Implemented - sterilisation has been prohibited.

18. While noting that studies are under way concerning possible reforms to the criminal law, the Committee is concerned that existing legislation protects children from sexual exploitation through pornography or prostitution only up to the age of 14. **The Committee recommends that the State party take all appropriate measures to ensure that the age of sexual consent does not conflict with the right of all children to be fully protected from exploitation.**

➤ New legislation in preparation.

In this regard, the Committee also encourages continued consideration of the recommendations formulated in the Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children held in Stockholm in 1996.

➤ Partly implemented - No comprehensive Stockholm/Yokohama implementation strategy; but in 1998 Action Plan against Child Abuse and Child Pornography on the Internet adopted by the government (see chapter 10.2 of NC Report).

19. Regarding article 11, the Committee notes with satisfaction that Austria is a party to the 1980 European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children and to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. **The Committee encourages the State party to promote the conclusion of bilateral agreements to the same effect with States that are not parties to the two above-mentioned conventions. The Committee also recommends that maximum assistance be provided through diplomatic and consular channels, in order to solve cases of illicit transfer and non-return of children arising in such States, in the best interests of the children involved.**

➤ No information available.

20. The Committee is concerned about the extended time-frame for the review of placement ordered by the courts for mentally ill children. **The Committee encourages the State party, in determining the periodicity for the review of placement, to consider the principles and provisions of the Convention, in particular the best interests of the child.**

➤ No information available.

21. Regional disparities, including differences between rural and urban areas, exist in the provision of rehabilitation services for abused children. **The Committee recommends that the State party take all appropriate measures to implement fully the right of the child to physical and psychological recovery and social reintegration, in accordance with article 39 of the Convention.**

➤ Not implemented - see situation of child refugees (chapter 8 of NC Report).

22. The Committee takes note of the efforts of the State party to integrate children with disabilities by providing a wide range of services. **The Committee encourages the State party to continue its efforts to promote the social inclusion of children with disabilities, in accordance with article 23 of the Convention.**

➤ Partly implemented - 2003 European Year of People with Disabilities with mixed results; efforts on awareness raising and promotion of non-discrimination, but implementation still lacking e.g. in education (see chapter 6 of NC Report).

23. The Committee is concerned that, in spite of the provision of additional financial resources, the number of places available in services such as kindergarten and pre-school facilities appears to be inadequate. **In the light of article 18.3, the Committee recommends that the State party take all appropriate measures to increase the number of places in kindergarten and pre-school facilities, such as day care.**

➤ Not implemented (see chapter 5 of NC Report).

24. The Committee shares the State party's concern that "a large number of children in Austria are living on the edge of poverty" (CRC/C/11/Add.14, para. 373), and the increase in family allowances and tax deductions planned for 1999 and 2000 may not be sufficient to prevent poverty. **The Committee recommends that all appropriate measures be taken to prevent poverty in the light of the principles and provisions of the Convention, especially its articles 2, 3, 6, 26 and 27.**

➤ Not implemented (see chapter 6.2 of NC Report).

25. Noting that in the school curriculum "civic education" incorporates, *inter alia*, human rights and children's rights, but does not appear to refer specifically to the Convention, **the Committee encourages the State party to include specific information on the provisions of the Convention in its school curriculum.**

➤ Partly implemented - civic education is now mandatory part of secondary education, should include human rights and child rights education; lack of integration in training institutions for teachers and educators and for other professionals working with children.

26. The Committee notes that budgetary austerity measures have affected the working of the school system, for example by introducing some family contributions for school books and enrichment activities, or by reducing the choice of optional subjects. **The Committee recommends that these measures be examined carefully with regard to their impact on the progressive implementation of the child's right to education and leisure activities, in accordance with articles 28, 29 and 31 of the Convention, and in particular so as to limit their impact on the most vulnerable and disadvantaged groups.**

➤ Not implemented (see chapters 6, 7, 8 of NC Report).

27. Notwithstanding the 1997 Alien's Act requirement to use "more lenient means when minors are involved", the Committee is seriously concerned about legislation which permits the detention of asylum-seeking children pending deportation. **The Committee urges the State party to reconsider the practice of detaining asylum-seeking children, and that such children be treated in accordance with the best interests of the child and in the light of the provisions of articles 20 and 22 of the Convention.**

➤ Not implemented - detention pending deportation for minors still allowed (see chapter 8 of NC Report).

28. The Committee is concerned that domestic legislation permits children from the age of 12 to be involved in light work, and **recommends that the State party consider ratifying ILO Convention (No. 138) concerning Minimum Age for Admission to Employment and changing its domestic legislation accordingly.**

➤ Partly implemented - ILO Convention No. 138 ratified in 2000, but no comprehensive implementation.

29. With regard to juvenile justice, the Committee remains concerned about the lack of disaggregated statistics on types of offence, length of sentences, length of pre-trial detention, etc. **The Committee requests that further information on the situation of children in prison be provided and urges the State party to ensure the full compatibility of the juvenile justice system with the Convention, especially articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.**

➤ Not implemented - Vienna Juvenile Justice Court dissolved in 2003 (see chapter 9 of NC Report)!

30. While acknowledging the steps taken to ensure the rights of children belonging to minorities, and in particular the projects providing school assistance and linguistic and cultural support to children belonging to the Roma group, the Committee remains concerned about social and other discrimination faced by children belonging to the Roma and other minorities, and in particular by those belonging to groups that do not enjoy the constitutional status of "ethnic groups" (see CRC/C/11/Add.14, para. 517).

**The Committee recommends that the State party take all appropriate measures to protect and ensure the rights of Roma, Sinti and other minority children, including protection from all types of discrimination, in accordance with articles 2 and 30 of the Convention.**

➤ No information available.

31. Lastly, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public, along with the summary records of the relevant meetings and the concluding observations adopted by the Committee.

➤ Partly implemented - Initial report, Committee Guidelines for Reporting and 1999 Concluding Observations of the Committee published jointly in 2000, but without written replies, summary records and, also without NGO/NC Report (see chapter 1 of the NC Report).

Such wide distribution should generate debate and awareness of the Convention and the state of its implementation, particularly within the Government, the relevant ministries, the parliament and non-governmental organizations.

➤ Not implemented - no such wide distribution or systematic efforts for debate with all relevant actors.