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PERIODIC REPORTS ON HUMAN RIGHTS

Reports on economic, social and cultural rights, for the period  
1 July 1969-30 June 1973, received from Governments under  
Economic and Social Council resolution 1074 C (XXXIX)

AUSTRIA

I

During the period from 1 July 1969 to 30 June 1973, further progress was made in Austria to ensure and extend human rights. Details are furnished in the information under section III below.

II

Of particular influence during the period under review were the efforts to secure ratification, and the subsequent ratification, of the Conventions (No. 124) concerning Medical Examination of Young Persons for Fitness for Employment Underground in Mines; (No. 111) concerning Discrimination in Respect of Employment and Occupation and (No. 122) concerning Employment Policy.

III

ad A, item 1: No change

ad A, item 2:

The following statutes were enacted in the period under review:

Federal Act concerning the Representation of Young Workmen (Young Staff Council Act) [Bundesgesetz über betriebliche Jugendvertretungen (Jugendvertrauensrätegesetz)], dated 9 July 1972, Fed. Law Gaz. No. 287.

Regulation by the Federal Minister of Social Affairs concerning the Election of Young Workers' Councils /Verordnung des Bundesministers für soziale Verwaltung über die Wahl des Jugendvertrauensrates/, dated 7 December 1972, Fed. Law Gaz. No. 475.

Regulation by the Federal Minister of Social Affairs concerning the Management of Young Staff Councils /Verordnung des Bundesministers für soziale Verwaltung über die Geschäftsführung der betrieblichen Jugendvertretungen/, dated 22 December 1972, Fed. Law Gaz. No. 13/1973.

In the period under review a Government Bill for a Federal Act concerning the Labour Charter /Bundesgesetz betreffend die Arbeitsverfassung/ was prepared and submitted to the Austrian Parliament. That Act was unanimously adopted by the National Council on 14 December 1973 (Fed. Law Gaz. No. 22/1974) and entered into force on 1 July 1974. Details of that Act will be described in the next report.

As regards the "VI. Hauptstück" of the Industrial Code referred to in the preceding report it is noted that several rules were rescinded and provision for protection of the lives, health and morals of the employed is now made in the Act concerning Protection of the Employed /Arbeitnehmerschutzgesetz/ of May 30 1972, Fed. Law Gaz. No. 234.

The Act on Rural Work /Landarbeitsgesetz/ mentioned in the last report has been amended by Fed. Law Gaz. Nos. 463/1969, 239/1971, 318/1971 and 333/1971. The last-mentioned Act has introduced into the sector of agriculture and forestry a higher degree of participation and the right of members of staff councils to educational leave as laid down for the scope of the Staff Councils Act in the Amending Act, Fed. Law Gaz. No. 319/1971.

The Workers' Holidays Act /Arbeiterurlaubsgesetz/ of 1959 was amended in the period under review by the Fed. Law Gaz. No. 317/1971. In addition to other important rules for bringing holidays legislation into uniformity as regards the length of leave, that Federal Act has laid down a minimum leave of 18 working days for all workers and employees excluding those working in the public sector and in agriculture and forestry.

The Act concerning Building Workers' Holidays of 1957 and the Implementing Regulations thereto have been replaced by the Act concerning Building Workers' Holidays /Bauarbeiter-Urlaubsgesetz/ of 1972, Fed. Law Gaz. No. 414, and the Regulation Fed. Law Gaz. No. 485/1972.

The Federal Act concerning Regulation of Hours of Work /Bundesgesetz über die Regelung der Arbeitszeit/ of 11 December 1969, Fed. Law Gaz. No. 461, has superseded the Hours of Work Code of 30 April 1938, German Reich Law Gaz. I, p. 447. It largely follows the arrangements provided in the General Collective Agreement and has established a reduction by stages of normal working hours. The normal weekly working time is now 42 hours and effective 6 January 1975, it will be 40 hours. Moreover, the making up of wages to compensate for shortening working hours has been provided by law; in cases where staff members are prepared to work

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and provided this is permissible under the respective collective agreement, the working time may be fixed at not exceeding 60 hours per week. In this connexion mention should also be made of the Public Notice of 2 June 1970, Fed. Law Gaz. No. 163, relating to the date of shortening of working hours for the majority of employed in public medical establishments and nursing homes (hospitals) of the territorial authorities and the Amendment of the Hours of Work Act, Fed. Law Gaz. No. 238/1971, which provides for a 50 per cent pay increase for overtime.

The Act on the Employment of Children and Young Persons /Kinder- und Jugendlichenbeschäftigungsgesetz/ was subject to two amendments in the period under review, viz.: Fed. Law Gaz. Nos. 462/1969 and 331/1973. Important changes provided in the latter Amendment include in particular:

A new definition of the terms of children and young persons to ensure, in consideration of compulsory school attendance, facilities for entry into the labour market and an extension of the protection of young persons until the end of education but not longer than until completion of the nineteenth year of age (on principle, the rules relating to protection of young persons are applicable from completion of the fifteenth to completion of the eighteenth year of age);

Modification of the rules concerning the distribution of weekly working hours for facilitating introduction of the five-day week in enterprises;

Fixing of a maximum working time of 10 hours per day in the case of concurrence of several extensions of working hours;

Possibility to evaluate examinations of young persons entering for the first time a job for the purposes of determining their fitness.

In the context of protection of children and young persons mention should also be made of the Federal Acts of 11 December 1969, Fed. Law Gaz. No. 462, and 20 June 1973, Fed. Law Gaz. No. 331.

Maternity protection is dealt with in the Federal Act of 11 December 1969, Fed. Law Gaz. No. 462.

Concerning protection of the lives and health of the employed the following changes have been provided in the period under review:

Federal Act concerning Measures for the Protection of Life or Health of Man and His Descendants Against Damage Caused by Ionising Radiation /Bundesgesetz über Massnahmen zum Schutz des Lebens oder der Gesundheit von Menschen einschliesslich ihrer Nachkommenschaft vor Schäden durch ionisierende Strahlen/, dated 11 June 1969, Fed. Law Gaz. No. 227;

Regulation concerning an Amendment and Supplementation of the Second Implementing Regulation under the Electrical Engineering Act (Third Implementing Regulation under the Electrical Engineering Act) of 1 July 1969, Fed. Law Gaz. No. 263;

Regulation concerning Protection of Staff and Neighbourhood in Connexion with the Operation of Refrigerating Plants [Verordnung über den Schutz der Dienstnehmer und der Nachbarschaft beim Betrieb von Kälteanlagen], dated 21 July 1969, Fed. Law Gaz. No. 305;

Regulation concerning Measures for the Protection of Life or Health of Man and His Descendants Against Damage Caused by Ionising Radiation, dated 12 January 1972, Fed. Law Gaz. No. 47;

Federal Act concerning Protection of Lives, Health and Morals of Workers (Protection of Workers Act) [Bundesgesetz über den Schutz des Lebens, der Gesundheit und der Sittlichkeit der Arbeitnehmer (Arbeitnehmerschutzgesetz)], dated 30 May 1972, Fed. Law Gaz. No. 234;

Regulation concerning the Equipment of Enterprises for Effecting the Protection of Workers [Verordnung über Einrichtungen in den Betrieben für die Durchführung des Arbeitnehmerschutzes], dated 30 April 1973, Fed. Law Gaz. No. 253.

ad A, item 3: No change.

ad A, item 5: No change.

ad A, item 6:

The information furnished in the previous report is in some respects no longer up-to-date and should be replaced by the following text:

(a) Working hours

Working hours of wage and salary earners of more than 18 years of age are laid down under the Hours of Work Act [Arbeitszeitgesetz] of 11 December 1969, Fed. Law Gaz. No. 461, as amended by the Federal Act of 16 June 1971, Fed. Law Gaz. No. 238. Said Act provides that the normal daily working time must not exceed eight hours and the weekly working time must not be more than 42 hours. According to the Federal Act of 11 December 1969, Fed. Law Gaz. No. 462, a normal working time of eight hours per day and 42 hours per week is also applicable to young persons.

(b) Leisure

Pursuant to the Hours of Work Act wage and salary earners must be allowed a daily off-time of not less than 11 successive hours after the end of the daily working time. This time of leisure may be reduced under the Collective Agreement to 10 hours for male workers. Moreover it is provided that wage and salary earners have a right to a weekly off-time of not less than 36 successive hours; this rule will however become effective only with the enactment of a regulation providing exceptions from the rules regarding an uninterrupted weekly leisure.

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In relation to young persons the Federal Act concerning the Employment of Children and Young Persons, Fed. Law Gaz. No. 146/1948, as amended, provides that they shall be allowed a leisure of not less than 12 successive hours after the end of the daily working time. Young persons have moreover a right to a weekly off-time of 43 successive hours.

(c) Rests

Rules concerning rests are now contained in article 11 of the Hours of Work Act relating to wage and salary earners who have completed their 18th year of age.

(d) Public holidays

No change occurred in this respect in the period under review.

(e) Leave

The Amendment of the Workers' Holidays Act of 1959, dated 13 July 1971, Fed. Law Gaz. No. 317, has increased the minimum leave to 18 working days. The leave has been fixed at 24 working days if employment has lasted for 10 years without an interruption and at 30 working days if it has lasted for 25 years without an interruption. The leave of building workers has been rearranged by the Act concerning Building Workers' Holidays of 1972.

ad A, item 7: No change.

ad A, item 8: No change.

ad B (a) Unemployment:

The words "waiting period of 7 days" appearing in the previous report should be replaced by "waiting period of 3 days". The survey should be amended by replacing under A the amounts of income of AS 1,200 by AS 2,000; under B, the waiting period should read "3 days" instead of "7 days"; under E, amount of benefits, the words "10 weeks" should be replaced by "4 full weeks" and "680 schillings per week" by "4,800.- schillings per month" and "30 schillings (for the first dependent), 24 schillings (for the second and every further dependent)" by "240 schillings per month for every dependent".

ad B (b) Sickness, disability, motherhood, death, industrial accident, occupational disease, old age:

In the period under review the following major legislation was enacted which has extended, both qualitatively and quantitatively, the right to social security including social insurance, thus also meeting the requirements contained in section III, point C, item 4 and point D, items 3 and 4:

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1. Amendment of the legislation relating to social insurance of wage and salary earners:

General Social Insurance Act /Allgemeines Sozialversicherungsgesetz/:

24th Amendment: Introduction of a 10 per cent addition to the widow's pension; introduction of widow's pensions also for wives whose husbands were killed in an accident before 1 May 1942, without having fulfilled a waiting period; improvement of the status of a group of receivers of widow's pensions under the accident insurance scheme.

25th Amendment: Cancellation of the suspension of pensions in the case of completion of 540 contributory months; provision of new substitute periods influencing the amount of benefits; increase of the widow's pension to 60 per cent of the pension due to the insured person; reinstatement of widow's pension upon dissolution of a subsequent marriage.

29th Amendment: Inclusion of dentists in the health and accident insurance scheme; opening of the voluntary health insurance scheme for students; inclusion in the full insurance scheme of members of an order working with third agencies; payment of the cost of examination of young persons as an obligatory benefit; introduction of the examination of healthy people; extension of the (exhaustive) list of occupational diseases; improvements under the insurance law for old-age pensioners who continue to work or postpone the exercise of their title to drawing such a pension; relaxation and, finally, cancellation of the rules concerning suspension of the payment of widow's pensions; reform of the legislation relating to equilization allowances.

Act concerning Health and Accident Insurance of Civil Servants /Beamten-Kranken- und Unfallversicherungsgesetz/

4th Amendment: Introduction of the examination of healthy people; extension of the group of persons liable to obligatory accident insurance to include unpaid probation officers.

2. Amendments of the legislation relating to social insurance of self-employed persons:

Act concerning Pension Insurance of Self-Employed Persons in Trade and Industry /Gewerbliches Selbständigen-Pensionsversicherungsgesetz/

18th Amendment: Introduction of a 10 per cent addition to the widow's pension.

19th Amendment: Increase of the widow's pension to 60 per cent of the pension due to the insured person; cancellation of the suspension of pensions in the case of completion of 540 contributory months; relaxation of the reasons precluding the drawing of widow's pensions upon dissolution of a subsequent marriage.

21st Amendment: Relaxation and, finally, cancellation of the rules concerning suspension of the payment of widows' pensions; reform of the legislation relating to equalization allowances; facilities to improve the contribution calculation basis influencing the amount of benefits, if the income was reduced or dropped out as a result of incidents beyond the insured person's control; facilities relating to the fulfilment of the waiting period in certain cases for persons becoming subject to insurance at an advanced age; introduction of an additional basis for the calculation of pensions upon completion of the fifty-fifth year of age; introduction of a premature old-age pension in the case of great length of insurance; introduction of family and daily allowances during medical treatment for persons fulfilling certain conditions; reinstatement of temporary widows' pensions upon dissolution of a subsequent marriage.

Act on Supplementary Old Age Pension Insurance for Farmers /Landwirtschaftliches Zuschussrentenversicherungsgesetz/

14th Amendment: Relaxation of the requirements establishing a title to a supplementary old age pension on the ground of disability; easing of the requirements to be fulfilled by certain surviving dependants for drawing benefits under the transitional law.

Act on Old Age Pension Insurance for Farmers /Bauern-Pensionsversicherungsgesetz/

Basic law (which has essentially replaced the aforementioned Act on Supplementary Old Age Pension Insurance for Farmers): Establishment of a standard pension insurance system for the rural population in respect of old-age, disability and death.

1st Amendment: New rules concerning the reinstatement of widows' pensions.

2nd Amendment: Relaxation and, finally, cancellation of the rules concerning suspension of the payment of widows' pensions; reform of the legislation relating to equalization allowances; facilities relating to fulfilment of the waiting period in certain cases for persons becoming subject to insurance at an advanced age; reinstatement of temporary widows' pensions under the Supplementary Old Age Pension Insurance for Farmers upon dissolution of a subsequent marriage.

Act concerning Health Insurance of Self-Employed Persons in Trade and Industry /Gewerbliches Selbständigen-Krankenversicherungsgesetz/

Basic law (which has replaced the Act concerning Health Insurance of Self-Employed Persons in Trade and Industry referred to in the preceding report): contribution-free co-insurance of certain dependants of the insured person; inclusion of further groups of pensioners in compulsory insurance; relaxation of the conditions for continued insurance; abolition of the waiting period required in the past for certain benefits under voluntary insurance;

cancellation of former rules concerning suspension of title to benefits in the case of a stay abroad.

1st Amendment: Introduction of the examination of healthy people.

Act on Health Insurance of Farmers /Bauern-Krankenversicherungsgesetz/

6th Amendment: Lowering of the age-limit for compulsory insurance; payment of the cost of examination of young persons as obligatory benefit; introduction of the examination of healthy people.

ad B (c) Other lack of livelihood

In the Federal Provinces of Vorarlberg and Vienna, the social welfare rules contained in the Provincial legislations, which had their origin in the Reich legislation, were replaced in the period under review by up-to-date social assistance laws which provide for assistance to be granted in special circumstances over and above the assistance to secure necessities of life. The assistance in special circumstances includes measures for establishing and ensuring the financial basis of life and financial aid to overcome extraordinary circumstances of distress. There does not exist a legal title to that type of assistance (as distinct from the assistance to secure necessities of life). The assistance may be granted to individuals who by reason of their special personal, family or financial circumstances or extraordinary events are exposed to social danger and need help from the community in order to be integrated into society and working life.

ad C, items 1, 2 and 4:

The requirements appearing in items 1, 2 and 4 of section III/C - as far as they concern the social insurance sector - are met not only by relevant insurance legislation warranting their fulfilment but in particular also by annual adjustments of annuities and old-age pensions to rising costs of living, having regard also of factors of national economy (especially improvement of productivity). The rates of adjustment in the period under review were 7.1 per cent for the calendar year 1969; 5.4 per cent for 1970; 7.1 per cent for 1971; 7.4 per cent for 1972 and 9 per cent for 1973. They result in a corresponding increase of the benefits payable under pension and accident insurance schemes with effect from the beginning of the respective calendar year.

ad C, item 3:

The social services provided in the past under public relief are now legally secured by the new Social Assistance Acts of the Federal Provinces.

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ad C, item 5:

It was especially in the period under review that close attention was paid to the problems of maintaining or restoring a healthy human environment. The Cabinet Council, by its decision of 23 July 1970, set up an Interministerial Committee on Environmental Hygiene, which is entrusted with co-ordinating from the legislative, administrative and technical points of view the efforts undertaken by the Federal State, the Federal Provinces and communes relating to protection of the environment. Under the Federal Act of 21 January 1972, Fed. Law Gaz. No. 25, a special Federal Ministry of Health and the Environment has been established which is competent not only for co-ordination but in particular also for research concerning protection of the environment - in so far as this is not the responsibility of the Federal Ministry of Science and Research.

One aspect of human environment is the place of work. The Act concerning Protection of the Employed /Arbeitnehmerschutzgesetz/, Fed Law Gaz. No. 234/1972, embodies rules designed to secure for every wage and salary earner a place of work and working conditions affording safety of work and meeting hygienic requirements. In particular, care must be taken to organize working methods and conditions in a manner reflecting the states of engineering and medicine, especially industrial hygiene and physiology as well as ergonomics.

ad D, item 1:

To reduce the rates of infant mortality, premature birth and still-birth to a minimum, a system has been established for prophylactic examination of the mother and her child. The Family Burdens Equilisation Act /Familienlastenausgleichsgesetz/ of 1967, Fed. Law Gaz. No. 376, has been modified by the Amending Act, Fed. Law Gaz. No. 29/1974, in that the birth allowance has been increased while its receipt has been made subject to the condition of undergoing certain prophylactic examinations. These examinations are defined in the Regulation Prescribing the Medical Examinations for Obtaining the Increased Birth Allowance and the Mother-Child-Passport /Verordnung über die Festlegung der ärztlichen Untersuchungen zur Erlangung der erhöhten Geburtenbeihilfe und den Mutter-Kind-Pass, dated 16 January 1974, Fed. Law Gaz. No. 33/1974.

Said mother-child-passport contains moreover recommendations concerning prophylactic examinations of the child until school entry.

These measures are designed to arouse wide interest for effective prophylactic examinations as this is an important condition for reducing the rate of infant mortality.

ad D, item 2:

The Act concerning Protection of the Employed, Fed. Law Gaz. No. 234/1972, has created the basic conditions enabling the Federal Ministry of Social Affairs to prescribe by way of Regulations all the improvements of industrial hygiene

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which are necessary to ensure, and promote further development of, an adequate protection of the lives and health of the employed during their vocational activities in keeping with the highly advanced state of technology and modern medicine. The Regulation concerning the Equipment of Enterprises for Effecting Protection of the Employed, dated 30 April 1973, Fed. Law Gaz. No. 253, has laid down details relating to the intra-firm organization required for effecting protection of the employed. This has led to an enlargement of the group of persons dealing on an enterprise-level with problems relating to the protection of workers. Further Regulations on the subject of improving protection of the employed are in the preparatory stage.

ad D, item 3:

Due to appropriate epidemiological rules and the resulting prophylactic and control measures there has been a declining number of contagious and epidemic diseases in Austria and other comparable countries. Moreover, the Federal Ministry of Health and the Environment is preparing a law which shall as far as possible prevent an import of epidemic diseases from abroad.

At the time being a rising trend can be noticed merely for venereal diseases. In this field increased attention is paid to complete ascertainment of the individual cases and in particular to an effective enlightenment of the population.

Enormous progress was achieved in particular by the scheme for examination of healthy people adopted by the legislature in the period covered by this report. After overcoming the technical difficulties involved in the implementation of this legal measure, an early diagnosis of latent diseases and their treatment will be possible also within the framework of health insurance schemes, and thus - by establishing a direct connexion between prophylactic and curative treatment - there will be made an extremely valuable contribution toward further development of the right to social security. Further action taken by the legislature in the period under review for the purposes of preventing industrial accidents and vocational diseases concerns the intensification of training programmes within the framework of the accident prevention service to be set up by accident insurance schemes. Regarding vocational diseases it should be noted in particular that the list of diseases recognized as vocational diseases has been extended by including pulmonary fibrosis caused by hard metal dust and skin diseases if and as long as they force the person concerned to discontinue noxious gainful activity.

Similarly, the Act concerning Protection of the Employed, Fed. Law Gaz. No. 234/1972, contains rules relating to the occupation of workers in activities which because of the type of operation involve the danger for the worker to fall ill of a vocational disease. The activities which according to experience are likely to cause injuries to the health of workers have to be determined under Regulations. Such a Regulation was prepared in the period covered by the present report. Several of the current rules on protection of the employed contain provisions designed to prevent incipience of a vocational disease.

ad D, item 4:

As the population is largely covered by compulsory social insurance it appears that medical service and medical attention are assured to everybody.

Under the public relief and social relief systems assistance is provided as obligatory benefit to the sick and to pregnant mothers and women in childbed. Pursuant to the Vienna Social Relief Act the assistance to the sick comprises curative treatment including dental treatment; supply of remedies, medicinal appliances, artificial parts of the body and artificial denture; examination, treatment, hospitalization and care in hospitals as well as transport of sick persons. Moreover, treatment in sanatoria and watering places can be granted for restoration or improvement of health. Assistance to pregnant mothers and women in childbed comprises all medical and social measures of attention required in connexion with pregnancy and accouchement including accommodation in suitable establishments and a contribution toward the cost of accouchement.

ad E, items 1 to 4:

The attention should be drawn to the Federal Act concerning a Reform of the Legal Status of the Illegitimate Child /Bundesgesetz über die Neuordnung der Rechtsstellung des unehelichen Kindes/ of 30 October 1970, Fed. Law Gaz. No. 342.

That Federal Act has materially improved the legal status of the illegitimate child compared with what it had been in the past; in addition it has provided an improvement of the status of unmarried mothers. The child born out of wedlock has now the same title to nourishment and maintenance as has a legitimate child (art. 166 a, para. 1, General Civil Code) and equally with the legitimate child a right to intestate succession in the inheritable property of the father (art. 754, para. 2, General Civil Code), which is, however, not in all cases applicable. It is now easier than in the past for the illegitimate child's mother to be appointed guardian of her child (art. 198, para. 2, General Civil Code).

IV

Under the Austrian legislation any discrimination on the grounds of the criteria enumerated in this section is excluded by reason of constitutional rules.

V

The legal difficulties experienced in ensuring also to persons residing temporarily or permanently outside the Austrian territory the enjoyment of the rights to social security benefits acquired under the relevant legislation in Austria are overcome by this country by concluding bilateral agreements. Such agreements provide, as a rule, for transfers of cash benefits from the Austrian social security system (especially pension insurance schemes) and the possibility for a person falling ill in a State which is a party to such an agreement to be

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given temporary care on the spot at the expense of the Austrian insurer liable for providing benefits.

The number of States with whom Austria concluded relevant agreements grew between 1 July 1969 and 30 June 1973, the new parties to such agreements being Turkey, France and Great Britain.

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