



**Convention on the  
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD  
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**WRITTEN REPLIES BY THE GOVERNMENT OF AUSTRIA TO THE LIST  
OF ISSUES (CRC/C/OPSC/AUT/Q/1) TO BE TAKEN UP IN CONNECTION  
WITH THE CONSIDERATION OF THE INITIAL REPORT OF AUSTRIA  
(CRC/C/OPSC/AUT/1) SUBMITTED UNDER ARTICLE 12 (1) OF THE  
OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF  
THE CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION  
AND CHILD PORNOGRAPHY**

[Replies received on 13 August 2008]

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**WRITTEN REPLIES BY AUSTRIA TO THE LIST OF ISSUES  
IN CONNECTION WITH THE CONSIDERATION OF THE  
INITIAL REPORT OF AUSTRIA (CRC/C/OPSC/AUT/1)**

**Question 1.** *Please provide (if available) statistical data (including by sex, age group, urban/rural area) for the years 2005, 2006 and 2007 on:*

- (a) *The number of reported cases of sale of children, child prostitution and child pornography, with additional information on type of follow-up provided on the outcome of the cases, including prosecution, withdrawals and sanctions for perpetrators;*
- (b) *The number of reported cases of children trafficked to and from Austria, as well as trafficked within the country, for the purpose of sexual exploitation;*
- (c) *The number of reported cases of crimes related to child sex tourism involving Austrian citizens, with additional information on type of follow-up provided on the outcome of the cases, including prosecution, withdrawals and sanctions for perpetrators; and*
- (d) *The number of child victims provided with recovery assistance and compensation as indicated in article 9, paragraphs 3 and 4 of the Optional Protocol.*

1. The following statistics are currently available in Austria concerning the offences of human trafficking (section 104a of the Austrian Penal Code [StGB]), Sexual Abuse of Minors (sect. 207b StGB, which contains in its subsection 3 the criminal offence of sexual contact with minors [under 18] against remuneration), procuring sexual contacts with minors in return for remuneration (sect. 214 StGB), promotion of prostitution and pornographic performances involving minors (sect. 215a StGB), transborder trafficking for prostitution (sect. 217 StGB), and forbidden procurement of adoptions (sect. 194 StGB).

**A. Gerichtliche Kriminalstatistik**

**(Statistics based on data on criminal offences provided by the courts)**

**1. Statistics on convictions**

**Table 1**

**Total number of convicted persons**

	2005	2006	2007
Sect. 104a StGB	0	0	1
Sect. 207b StGB	7	3	12
Sect. 214 StGB	0	0	0
Sect. 215a StGB	3	1	2
Sect. 217 StGB	25	18	29
Sect. 194 StGB	0	0	0

**Table 2****Convicted persons: males, females, Austrian nationals and foreigners**

	Male	Female	Austrians	Foreigners
2005				
Sect. 104a StGB	0	0	0	0
Sect. 207b StGB	7	0	5	2
Sect. 214 StGB	0	0	0	0
Sect. 215a StGB	3	0	2	1
Sect. 217 StGB	19	6	10	15
Sect. 194 StGB	0	0	0	0
2006				
Sect. 104a StGB	0	0	0	0
Sect. 207b StGB	3	0	3	0
Sect. 214 StGB	0	0	0	0
Sect. 215a StGB	1	0	0	1
Sect. 217 StGB	14	4	7	11
Sect. 194 StGB	0	0	0	0
2007				
Sect. 104a StGB	1	0	0	1
Sect. 207b StGB	11	1	12	0
Sect. 214 StGB	0	0	0	0
Sect. 215a StGB	2	0	1	1
Sect. 217 StGB	22	7	11	18
Sect. 194 StGB	0	0	0	0

**Table 3****Convicted persons by age: juveniles, young adults and adults  
at the time of the offence**

	Juveniles	Young adults	Adults
2005			
Sect. 104a StGB	0	0	0
Sect. 207b StGB	0	0	7
Sect. 214 StGB	0	0	0
Sect. 215a StGB	0	0	3
Sect. 217 StGB	0	1	24
Sect. 194 StGB	0	0	0
2006			
Sect. 104a StGB	0	0	0
Sect. 207b StGB	0	0	3
Sect. 214 StGB	0	0	0
Sect. 215a StGB	0	0	1
Sect. 217 StGB	0	0	18
Sect. 194 StGB	0	0	0
2007			
Sect. 104a StGB	0	0	1
Sect. 207b StGB	0	0	12
Sect. 214 StGB	0	0	0
Sect. 215a StGB	0	0	2
Sect. 217 StGB	0	1	28
Sect. 194 StGB	0	0	0

## 2. Sanctions

**Table 4**

2005	Total	cf	uf	pcf	puf+ci	ci	ui	pci
Sect. 104a StGB	0	0	0	0	0	0	0	0
Sect. 207b StGB	7	0	0	0	2	3	2	0
Sect. 214 StGB	0	0	0	0	0	0	0	0
Sect. 215a StGB	3	0	2	0	0	0	1	0
Sect. 217 StGB	25	0	0	0	0	5	10	10
2006	Total	cf	uf	pcf	puf+ci	ci	ui	pci
Sect. 104a StGB	0	0	0	0	0	0	0	0
Sect. 207b StGB	3	0	0	0	1	0	2	0
Sect. 214 StGB	0	0	0	0	0	0	0	0
Sect. 215a StGB	1	0	0	0	0	0	0	1
Sect. 217 StGB	18	0	0	0	0	7	5	6
2007	Total	cf	uf	pcf	puf+ci	ci	ui	pci
Sect. 104a StGB	1	0	0	0	0	0	0	1
Sect. 207b StGB	12	0	3	0	1	7	1	0
Sect. 214 StGB	0	0	0	0	0	0	0	0
Sect. 215a StGB	2	0	0	0	0	2	0	0
Sect. 217 StGB	29	1	0	0	0	3	14	11

cf: conditional fine; uf: unconditional fine; pcf: partly conditional fine; puf+ci: partly unconditional fine and conditional imprisonment; ci: conditional imprisonment; ui: unconditional imprisonment; pci: partly conditional imprisonment.

### B. Polizeiliche Anzeigenstatistik

(Statistics based on data from reports to the police and on police reports to public prosecution authorities provided by the police)

**Table 5**

	Reported cases	Ascertained suspects	Of which male suspects	Of which foreign suspects
2005				
Sect. 104a StGB	92	16	12	6
Sect. 207b StGB	27	39	38	1
Sect. 214 StGB	6	12	8	1
Sect. 215a StGB	4	5	5	0
Sect. 217 StGB	74	93	71	74
2006				
Sect. 104a StGB	7	9	6	0
Sect. 207b StGB	57	68	67	11
Sect. 214 StGB	3	18	18	0
Sect. 215a StGB	6	13	9	1
Sect. 217 StGB	86	128	97	68
2007				
Sect. 104a StGB	11	5	4	4
Sect. 207b StGB	82	90	87	12
Sect. 214 StGB	3	2	2	0
Sect. 215a StGB	6	6	4	4
Sect. 217 StGB	70	207	176	98

### C. VJ-Verfahrensdaten

(Statistics based on data stemming from the judicial system)

2. A particular census based on data provided by the judicial system has shown the following results.

**Table 6**

	2005	2006	2007
<b>Sect. 104a StGB</b>			
Total number of proceedings:	16	33	18
thereof:	C: 1	C: 9	C: 2
	T: 12	T: 11	T: 9
	A: 0	A: 5	A: 1
<b>Sect. 214 StGB</b>			
Total number of proceedings:	16	12	33
thereof:	C: 4	C: 2	C: 1
	T: 5	T: 8	T: 30
	A: 2	A: 0	A: 2
<b>Sect. 215a StGB</b>			
Total number of proceedings:	18	16	33
thereof:	C: 6	C: 4	C: 8
	T: 5	T: 8	T: 9
	A: 2	A: 4	A: 19
<b>Sect. 217 StGB</b>			
Total number of proceedings:	542	395	524
thereof:	U: 76	U: 75	U: 85
	T: 299	T: 169	T: 232
	A: 35	A: 29	A: 30

C: conviction; T: termination (by public prosecution); A: acquittal.

**Question 2.** *Please advise if the Optional Protocol has the force and effect of law and whether it has been applied by the courts.*

3. The Optional Protocol is part of Austrian Law and has been published in the third part of the Austrian Federal Law Gazette (*Bundesgesetzblatt*, BGBl), which inter alia contains the Federal international treaties, as BGBl III Nr 93/2004. According to its nature as an international treaty modifying and complementing existing law and the prerequisites of the Austrian Federal Constitution, the National Council has on the occasion of the approval of the Protocol decided that the Protocol has to be implemented by the issue of laws. This has been done, in particular by the Criminal Law Amendment Act of 2004 (BGBl I Nr 15/2004). Since the Protocol is not self-executing, it cannot be applied by the courts as such; the implementation legislation, however, may be and has been applied by the courts.

**Question 3.** *The State party report (paras. 74 to 78) refers to: youth welfare institutions; child protection centres; the Child and Youth Advocate Offices (ombudsman services) and their counterparts in the federal provinces; child protection groups in all children's hospitals; "Children's Roundabout" (Kinderdrehscheibe). Please provide brief information on the respective role and activities of these bodies.*

#### **A. Role and activities of youth welfare institutions**

4. The youth welfare institutions of the nine provincial governments offer the following support services:

(a) They bear the legal obligation to protect the best interest of the child;

(b) Whenever youth welfare institutions get notice that the well-being of a child is in danger they have to take the necessary measures to safeguard the well-being of the child by appropriate means;

(c) Youth welfare programmes aim at supporting families at meeting their tasks in care and upbringing of their children. A number of preventive, protective and therapeutic services are provided for expectant mothers, parents, children and young people (-18 years), which are necessary for the well-being of the child. Most services are free of charge;

(d) In cases of emergency situations (e.g. violence or sexual abuse) youth welfare institutions have the opportunity to offer immediately a place in a protection centre or emergency accommodation centre. This can be done against the will of the legal guardians (but have to apply at court within eight days);

(e) Youth welfare institutions are obliged to provide equally for the well-being of Austrian citizens and foreigners;

(f) For (presumptive) victims of trafficking the youth welfare authorities of the city of Vienna have established the institution *Drehscheibe* (see section E below).

#### **B. Role and activities of children's protection centres**

5. The protection centres, which are co-financed by the federal and provincial governments, offer the following counselling services:

(a) Counselling of children and young people up to the age of 19 years who have experienced any kind of violence or feel threatened;

(b) Counselling of children and young people up to the age of 19 years having siblings or friends which feel threatened or are victims of any kind of violence;

- (c) Counselling of adults (parents, siblings, other family members, friends or other people) wanting to support a (suspected) victim of violence;
  - (d) Counselling of professionals working in youth welfare and psychosocial institutions, kindergartens, schools, health institutions and judicial system;
  - (e) Counselling is voluntary, free of charge and confidential; it is empowering, taking clearly the side of the child.
6. The protection centres offer the following additional services:
- (a) Provide awareness-raising and training of professionals (medical doctors, teachers and police);
  - (b) Do networking within the relevant stakeholders;
  - (c) Some of them also act as crisis centre for the public youth welfare.

### **C. Role and activities of ombudspersons**

7. All nine ombudspersons for children and adolescents offer inter alia guidance and help to children who experienced any kind of violence. They are also lobbying for the improvement of the legal, psychosocial and health situation of victims of violence.

### **D. Role and activities of child protection groups in all children's hospitals**

8. Child protection groups in all children's hospitals (36) are multidisciplinary teams (doctors, nurses, psychologists and social workers) that facilitate the identification of maltreatment and abuse of children and provide counselling of assistance measures in cases of suspected violence. Child protection groups are set up by law (section 8 (e) of the Hospital and Convalescent Facilities Act - *Kranken- und Kuranstaltengesetz*).

### **E. Role and activities of the *Drehscheibe***

9. The *Drehscheibe* is a youth welfare institution of the federal province of Vienna. Established for taking care of unaccompanied foreign minors in 2001, the institution is based on the Youth Welfare Law 1990 (LGBI Vienna No. 36/1990 idgF.) which commits the Viennese youth welfare system to provide shelter and protection also for non-residents if the well-being of the child is in danger. The institution is financed by regular youth welfare budgets of the city of Vienna. Eight socio-pedagogues take care of the children brought to the shelter by the police. Special psychotherapy is also provided if needed.

10. For further information see the Annex which contains the report by the Working Group on Child Trafficking under the Task Force on Human Trafficking.



**Question 4.** *Please indicate whether the Child and Youth Advocate Offices (ombudsman services), or any other independent monitoring mechanism on child rights have the mandate to receive complaints from, or on behalf of, children on violations of the Optional Protocol.*

11. The ombudsperson offices for children and adolescents - invested with different competencies and tasks in each individual province - provide counselling on questions and problems of concern to children and adolescents. They do have the mandate to receive complaints from, or on behalf of, children on violations of the Optional Protocol.

**Question 5.** *Please indicate whether the State party has a specific plan of action in relation to the sale of children, child prostitution and child pornography, and if so, please provide information on the competent authorities responsible for its implementation and coordination.*

12. Because of its geographical location at the centre of Europe, Austria is affected by human trafficking both as a transit country and target destination. According to estimates, the most frequent phenomena of human trafficking in Austria include sexual exploitation, slave-like situations of domestic servants and child trafficking.

13. In line with the provisions set out in the National Action Plan against Human Trafficking (adopted in March 2007 by the Austrian Government), Austria takes a comprehensive approach in fighting human trafficking, including child trafficking, involving coordination at the national level, prevention, victim protection, criminal prosecution and international cooperation.

14. The Task Force on Human Trafficking, headed by the Federal Ministry for European and International Affairs (FMEIA), was set up by a Ministerial Council Resolution in November 2004 and charged with coordinating and intensifying the measures taken by Austria in fighting this crime. The regular meetings of the Task Force are chaired by the FMEIA. These meetings are attended by representatives of all competent ministries, including outsourced divisions, the federal provinces and non-governmental organizations. Regular contacts and the intensive cooperation within the Task Force promote mutual trust and lay a sound foundation for concrete and practical progress.

15. The First Austrian Report on the Fight against Human Trafficking was prepared in line with item 7.1 of the National Action Plan against Human Trafficking under the aegis of the FMEIA in cooperation with the competent ministries and other members of the Task Force on Human Trafficking.

16. In order to be able to give more detailed consideration to the complex topic of child trafficking, the Task Force suggested that a separate working group on child trafficking be established. Under item 1.5 of the National Action Plan it was subsequently decided to set up relevant working groups, such as the Working Group on Child Trafficking. The Working Group on Child Trafficking is headed by the Austrian Ministry of Health, Family and Youth Affairs. The regular meetings of the Working Group are attended by the representatives of the competent ministries, the federal provinces and non-governmental organizations such as ECPAT Austria.

17. The Working Group on Child Trafficking prepared a report on child trafficking in Austria (see Annex) which offers a current overview of the activities and measures Austria has launched and is planning to take with respect to child trafficking. The period under review extends from the adoption of the National Action Plan on Human Trafficking in March 2007 to the end of May 2008.

**Question 6. *Please provide information on the relevant legal framework on domestic and inter-country adoption procedures, including legislation criminalizing offences under article 3 (1) (a) (ii).***

18. The relevant civil law provisions are contained in sections 179 to 185 bis of the Austrian Civil Code and in section 26 of the Act on International Private Law, whereas the offence established in accordance with article 3 (1) (a) (ii) of the Protocol is section 194 of the Austrian Penal Code.

## **I. CIVIL LAW**

### **A. Civil Code**

#### **Connections similar to the legal relationship between parents and children**

##### **Adoption**

19. Section 179

(1) Persons with legal disposing capacity who did not promise solemnly the unwedded state may adopt a child. The adoption creates the relationship between adopter and adoptee.

(2) The adoption of a child by more than one person - simultaneously or in succession as long as the adoptive relationship exists - is only admissible in case the adopters are married with each other. As a rule spouses may adopt only jointly. Exceptions are admissible if the own child of the other spouse shall be adopted, if a spouse does not comply with the legal conditions for disposing capacity or age, if his abode is unknown since at least one year, if the spouses have given up the conjugal community since at least three years or if similar and particularly important reasons justify the adoption by only one of the spouses.

(3) Persons being trusted by an official order to care for the property of the intended adoptee must not adopt him as long as they are not relieved of this duty. Beforehand they have to render account and prove the preservation of the property entrusted to them.

##### **Form; beginning of effectiveness**

20. Section 179 bis

(1) Adoption takes place by a contract in writing made between the adopter and the adoptee and by a judicial granting on the petition of one of the contracting parties. In case of granting its effectiveness begins at the moment when the parties have reached their common intention. The death of the adopter after this moment does not cause an impediment to the granting.

(2) An adoptee without legal disposing capacity enters into the contract through his legal representative who does not need a judicial permission to do this. In case the legal representative refuses to give his consent the court shall substitute it on the petition of the adopter or adoptee if there are no justified reasons for the refusal.

### **Age**

#### 21. Section 180

(1) The adoptive father must have completed the 30th year and the adoptive mother the 28th year of one's life. In case of a joint adoption by spouses or in case the adoptee is an own child of the spouse of the adopter it is admissible to remain under these age limits if there is already a relationship between the adopter and the adoptee corresponding to the relations between parents and their own children.

(2) Adoptive father and adoptive mother must be at least eighteen years older than the adoptee; an insignificant non-compliance with this period can be left out of account if there is already a relationship between the adopter and the adoptee corresponding to the relations between parents and their own children. If the adoptee is an own child of the spouse of the adopter or related to the adopter an age difference of sixteen years is sufficient.

### **Granting**

#### 22. Section 180 bis

(1) The adoption of a minor child has to be granted if the adoption is in the best interest of the child and if a relationship corresponding to the relations between parents and their own children exists or shall be founded. If the adoptee is a major the adoption shall be granted only if the applicants provide evidence that a close relationship corresponding to the relations between parents and their own children exists, in particular that the adoptee and the adopter have - during a period of five years - lived together in a household or assisted each other under similar circumstances.

(2) Apart from a non-compliance with the conditions under paragraph 1 the granting shall be denied if a preponderant interest of an own child of the adopter is opposing, especially if his maintenance of education could be endangered; as for the rest, economic concerns shall not be taken into consideration, save the adopter acts with the exclusive or preponderant intention to damage an own child.

#### 23. Section 181

(1) The granting may be given only with the consent of the following persons:  
(a) the parents of the minor adoptee; (b) the spouse of the adopter; and (c) the spouse of the adoptee.

(2) The right of consent of a person mentioned in paragraph 1 is set aside if he has entered into the adoption contract as legal representative of the adoptee; furthermore in case he is unable to a reasonable expression not only temporarily or his abode is unknown since at least six months.

(3) The court shall substitute the refused consent on petition of one of the contract parties if there are no justified reasons for the refusal.

24. Section 181 bis

(1) The following persons have a right to be heard:

(a) The adoptee without legal disposing capacity on completion of the fifth year of his life, save he has lived with the adopter already since this time;

(b) The parents of the adoptee of full legal age;

(c) The foster parents or the director of the home where the adoptee is placed; and

(d) The youth welfare authority.

(2) The right to be heard of an entitled person mentioned in paragraph 1 is set aside if he has entered into the adoption contract as legal representative of the adoptee; furthermore in case he could not be heard or could be heard only with disproportional difficulties.

### **Effects**

25. Section 182

(1) Between the adopter and his descendants on the one hand and the adoptee and his descendants being minor at the time when the adoption becomes effective on the other hand the same rights are created at this moment as they arise from the legitimate descent.

(2) In case the adoptee is adopted by spouses as adoptive parents the relations under the family law which are not based only on the relationship as such (sect. 40) between the own parents and their relatives on the one hand and the adoptee and his descendants being minor at the time when the adoption becomes effective on the other hand cease to exist at that moment irrespective of the exceptions provided in section 182 bis. In case the adoptee is adopted only by an adoptive father (an adoptive mother), these relations cease to exist merely with regard to the own father (the own mother) and his (her) relatives; insofar as these relations would maintain subsequently the court has - if the affected parent gives his consent in this respect to pronounce the cease towards this parent; the cease takes effect at the moment when the declaration of consent has been given, but at the earliest at the moment when the adoption becomes effective.

26. Section 182 bis (a)

(1) The obligations of the own parents and their descendants arising from the family law with respect to the performance of maintenance, dowry and trousseau towards the adoptee and his descendants being minor at the time when the adoption becomes effective remain valid.

(2) The same is applicable to the obligation of the adoptee to provide maintenance towards the own parents insofar as they did not fail grossly in providing for the maintenance towards the child still being under the age of fourteen before he has been adopted.

(3) But the obligations remaining valid under paragraphs 1 and 2 are inferior to the same obligations that have been created by the adoption.

27. Section 182 bis (b)

(1) The rights arising from the law of inheritance between the own parents and their relatives on the one hand and the adoptee and his descendants being minor at the time when the adoption becomes effective on the other hand remain valid.

(2) Regarding the intestate succession of the estate of the adoptee within the second line the adoptive parents and their descendants on the one hand have priority towards the own parents and their descendants on the other hand; in case the adoptee has been adopted only by an adoptive father (an adoptive mother) and the adoptive father (the adoptive mother) or his (her) descendants as well as the own mother (the legitimate father) or her (his) descendants are existing, half of the estate falls to the line of the adoptive father (the adoptive mother) and to the own mother (the legitimate father) respectively.

28. Section 183

(1) In case the adoptee is adopted only by one person and the relations arising from the family law to the other parent cease to exist pursuant to section 182, paragraph 2, second sentence, the adoptee obtains the family name of the adopter. Section 162 bis (a) paragraph 2 to 162 bis (d) are applicable accordingly.

(2) For the rest section 139 as well as section 162 bis (a) paragraph 2 to 162 bis (d) are applicable accordingly to the derivation of the family name of the adoptee from the adoptive parents or from an adoptive parent respectively and from this parent to whom the rights arising from the family law remained existing.

### **Revocation and cancellation**

29. Section 184

(1) The judicial granting shall be revoked by the court with retroactive effect:

(a) Officially or on the application of a contracting party if upon entering into the adoption contract the adopter has been without legal disposing capacity save he has indicated after achievement of the legal disposing capacity that he wants to continue the adoption;

(b) Officially or on the application of a contracting party if an adoptive without legal disposing capacity entered personally into the adoption contract save the legal representative or the adoptee after achievement of the legal disposing capacity has given the consent subsequently or the court has substituted the refused subsequent consent of the legal representative pursuant to section 179 bis paragraph 2;

(c) Officially or on the application of a contracting party if the adoptee has been adopted by more than one person, save the adopters have been married with each other at the time of the granting;

(d) Officially or on the application of a contracting party if the adoption contract has been concluded exclusively or predominantly with the intent to enable the adoptee to hear the name or the adoptive father or the adoptive mother or to create the outward appearances of an adoption in order to conceal an unlawful sexual relation;

(e) On the application of a contracting party if the adoption contract did not be concluded in writing and more than five years have passed since the granting-order entered into effect.

(2) In case a contracting party did not know the reason for the revocation (para. 1 n 1 to 3 and 5) at the time when the adoption contract has been concluded the revocation is regarded as cancellation (sect. 184 bis) within his relation to the other contracting party insofar as he claims on that.

(3) Towards a third party who has obtained rights before the revocation trusting in the validity of the adoption contract no objection may be raised that the granting has been revoked. A third party may not claim on the effects of the revocation to the disadvantage of a contracting party who did not know the reasons for the revocation at the time when the adoption contract has been concluded.

### 30. Section. 184 bis

(1) The adoption shall be cancelled by the court:

(a) If the statement of a contracting party or of a person entitled to consent has been caused by artifice or unlawful and well-founded fear and the person concerned applies for the cancellation within the term of one year from the discovery of the fraud or the cessation of the predicament;

(b) Officially if the maintenance of the adoption would endanger seriously the welfare of the adoptee without legal disposing capacity;

(c) On the application of the adoptee if the cancellation serves the welfare of the adoptee after the marriage of the adoptive parents has been dissolved or declared void or after the death of the adoptive father (the adoptive mother) and does not contradict a justified interest of the adoptive father (adoptive mother) being concerned by the cancellation, even though they are already dead;

(d) If the adoptive father (the adoptive mother) and the adoptee with legal disposing capacity apply for the cancellation.

(2) If the adoption exists towards an adoptive father and an adoptive mother the cancellation under paragraph 1 may take place only to both of them; the cancellation to only one of them is admissible merely in case the marriage has been dissolved or declared void.

31. Section 185

(1) Upon entry of legal force regarding the cancellation-order the legal relations created by the adoption between the adoptive father (the adoptive mother) and his (her) descendants on the one hand and the adoptee and his descendants on the other hand are terminated.

(2) At this time the relations arising from the family law between the own parents and their relatives on the one hand and the adoptee and his descendants on the other hand are reviving as far as they had been terminated under section 182.

(3) At the time mentioned in paragraph 1 the effects of the adoption pursuant to the naming law are considered as never produced with regard to the adoptee and his minor descendants.

32. Section 185 bis

A revocation or cancellation for other reasons than those being mentioned under articles 184 and 184 bis is inadmissible; in the same way a contractual agreement or a lawsuit contesting the validity of the adoption contract.

## **B. Act on International Private Law**

### **Adoption**

33. Section 26

(1) The conditions for the adoption and the termination of adoption shall be judged pursuant to the personal statute of each adopter and the personal statute of the child. If the child is a minor his/her personal statute has to be applied only concerning the consent of the child or a third party having a family relationship with.

(2) The effects of the adoption shall be judged pursuant to the personal statute of the adopter, in case of an adoption by spouses pursuant to the law applicable to the personal legal effects of the marriage, after the death of one of the spouses pursuant to the personal statute of the other spouse.

## **II. CRIMINAL LAW**

34. Section 194 of the Austrian Penal Code (StGB) specifically serves the purpose of implementing article 3 (1) (a) (ii) of the Optional Protocol. Under section 194, paragraph 1, anyone who, by granting an advantage to that person or to a third party, makes a person, who is entitled to give that consent, consent to the adoption of a minor by another person, shall be sentenced by imprisonment up to two years. The offender does not have to grant an advantage to himself/herself, and the mere fact that he/she acts as an intermediary granting an advantage to a third party, such as the prospective adoptive parents or to a person whose consent is required, or to a third party, is sufficient to incriminate him/her. The decisive circumstance is that the person consents to the adoption because of the advantage granted to him or her, or in other words, he/she consents to the sale of the child for adoption. The constituent element of “advantage” has a wide meaning and it comprises not only material objects or pecuniary benefit

(*Vermögensvorteil*), but also everything that may constitute an indirect, and in some cases only an (substantial) immaterial advantage. The advantage must have been granted either to persons whose consent is required or to a third party, e.g. to a close relative. Paragraph 2 of the cited Law provides for a penalty-increasing qualification; if the offender commits this offence with the intention of deriving a pecuniary benefit for himself/herself or for a third party (sect. 5, para. 2 of StGB), with imprisonment up to three years.

35. This provision is directed against persons who act as intermediaries in an intended adoption, where a person whose consent is required receives a benefit in return. This provision shall prevent the preparation or encouragement of such adoptions by a third party. To prevent the adopting married couple from being considered as an intermediary in relation to each other, paragraph 3 of the cited Law explicitly excludes the adopter and also the adopted child from liability to penalty.

***Question 7. Please provide information on initiatives taken by the State party to prevent child sex tourism by Austrian citizens abroad, including any legislative measures. What measures has the State party taken to disseminate the Code of Conduct set up by the World Tourism Organization on the protection of children from sexual exploitation in travel and tourism?***

36. In 1998 the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism was developed by the NGO ECPAT International with support of the European Union and the World Tourism Organization. The main objective is to stop or at least impede the crime of sexual exploitation of children committed by tourists through concrete actions, as awareness-raising and information and training measures. The two Austrian umbrella organizations representing the travel and tour operator industry (ÖRV: *Österreichischer Reisebüroverband* and ÖVT: *Österreichischer Verein für Touristik*) signed the Code in 2001. In May 2008, Accor Hospitality Austria signed the Code as first Austrian hotel group announcing as first measures to extensively train their employees and to inform their hotel guests on the issue of sexual exploitation of children in tourism.

37. Based on a federal law of 1997, Austrian citizens can be sentenced in Austria for the crime of sexually exploiting children, even though this crime was committed abroad. The Federal Ministry of Economics and Labour has already been working for years on introducing measures of awareness-raising and public information on this topic. These measures are discussed, elaborated and implemented together with the most important stakeholders of the Austrian Tourism industry represented in the permanent Round Table on “Ethics in Tourism” set up by the Ministry.

38. The most important measures which have been taken in Austria so far are the following:

- (a) Production of an in-flight video in 1999;
- (b) Production of information leaflets in 2002 for the Austrian tourism industry and information flyers for travellers;
- (c) Support of a model implementation of the Code of Conduct in selected destinations in 2003/2004;



(d) Setting up a touring exhibition *Hinschauen statt Wegschauen* (Don't look away) in 2005;

(e) In March 2006, the topic has been put on the agenda of the European Tourism Ministers in the framework of the Austrian Presidencies' Tourism Ministers Conference (responding to a prior initiative of the French Tourism Minister Léon Bertrand). A special presidency statement on the subject was issued in *BMWA, Abteilung V/2 Internationale Tourismuspolitik* (July 2008) in which the European countries agreed to consolidate efforts and to better coordinate individual measures. A first meeting of tourism stakeholders organized by the European Commission took place at the European level in the second half of 2006;

(f) In 2006/2007, a poster competition for students at Austrian tourism schools and universities was organized. On 5 March 2007, a plenary discussion on the topic took place, followed by the awards ceremony for the winners of the competition with the participation of Christine Marek, Secretary of State;

(g) Currently further measures of awareness-raising and targeted information are being prepared, such as a postcard as supplement for travel documents, electronic templates for travel catalogues and websites and teaching material for use in tourism high schools and tourism universities.

**Question 8. Please provide information on repatriation and deportation of children who may have been trafficked to Austria for the purpose of sale or sexual exploitation.**

39. In Austria, a Federal State, the legislative and administrative powers are divided between the Federation and the nine Provinces. Social welfare and youth protection fall under the competencies of the Provinces. Policing and justice are competencies of the Federation. Thus, Austria has one single Federal Police Force, responsible for all matters of public safety, public order, criminal police matters and also deportation of foreigners.

40. Children, being victims of a crime (even if they committed crimes themselves) are never subject to a forced deportation by the Police. If Police dismantles a criminal organization and rescues child victims from the perpetrators, the children are handed over to the responsible provincial youth welfare body. Further proceedings are carried out by this body.

41. Generally speaking, there are three options: further stay and integration of the child victim in Austria, onward journey to a third country or voluntary repatriation in the country of origin.

42. Option 3 is widely preferred in Austria. However, after the basic treatment of a child victim is completed, a thorough risk analysis has to be carried out, in order to ensure the well-being and reintegration of the child in the country of origin, be it in their families, be it in suitable youth welfare bodies of the respective countries. The repatriation has to be voluntary, carefully documented, fully coordinated between the competent authorities/bodies in both countries and with full data protection of the child, in order to meet International Organization for Migration (IOM) standards.

43. As an example, the procedure of the competent youth welfare authority in the capital city Vienna, which handles the vast majority of cases in Austria, is explained below:

The repatriation and reintegration of a child victim is sought as quickly as possible. It is mandatory, that the child victim will be under a special protection of a youth welfare body in the country of origin for a certain period of time. This goal is achieved by asking the respective organization in the country of origin to send reports on the level of reintegration for at least six months (so-called monitoring-programme). Even if the child victim is taken to a facility of a youth welfare body in the country of origin, they must be allowed to contact their families. The embassy of the country of origin is informed beforehand and acts as an important link between the youth welfare bodies in Austria and the country of origin. The child never ever travels unattended.

44. IOM is an important partner: an international organization, IOM provides support to identify the victims and helps to repatriate the victim under the conditions of the aforementioned IOM standards. It maintains a network in 40 countries and is able to keep track of every case in these countries through its regional offices. In countries where IOM does not have an office, UNICEF provides the same kind of support and help to Austria.

45. The majority of child victims in Austria are originating from Romania and Bulgaria (mostly forced to commit shoplifting, pickpocketing and aggressive begging). Therefore, Austria implemented a programme to advise and support Romanian and Bulgarian authorities to better reintegrate repatriated child victims. Special training was provided to youth welfare staff of these two countries. As a result, Romania up to now has established 14 specialized bodies to protect and reintegrate repatriated child victims; Bulgaria up to now established 3 such facilities. As a result, the number of child victims from these two countries declined significantly.

***Question 9. Please provide information on measures taken to strengthen international assistance in connection with investigative, criminal and extradition proceedings brought in respect of the offences covered by the Optional Protocol.***

46. In Austria numerous bilateral and multilateral agreements concerning extradition and mutual legal assistance in criminal matters are in force, which are applicable also to the offences established in accordance with the Protocol, in particular the European Convention on Extradition of 13 December 1957 together with its second additional protocol of 17 March 1978 and - among the member States of the European Union - the Council framework decision of 13 June 2002 on the European arrest warrant and the surrender procedures between member States as well as the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 together with its additional protocol of 17 March 1978 and - among the member States of the European Union - the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (2000/C 197/01).

47. The Austrian Federal Ministry of the Interior in cooperation with IOM Vienna implemented the project called Comprehensive training for law enforcement authorities responsible for child trafficking/minors, which was submitted to the European Commission under the AGIS Programme 2005 in partnership with the Ministry of Foreign Affairs of Sweden, the Belgian Federal Police, EUROPOL and the OSCE.

48. During the Austrian Presidency of the European Union (2006), the Austrian Federal Ministry of Interior was strongly focusing on combating human trafficking and trafficking in children in particular. The project was placed under the activities of the Austrian Presidency and contributed to EU efforts mentioned in the Hague Programme as well as in the European Plan on Best Practices, Standards, and Procedures for Combating and Preventing Trafficking in Human Beings.

49. The project was developed in accordance with the recommendations identified during the Workshop for Law Enforcement on Exchange of Information, Best Practices, Lessons Learned on Trafficking in Minors (May 2004) of the project Victim assistance for minors in the EU, candidate and third countries organized by IOM Vienna within the framework of the AGIS Programme 2003. The aim of the follow-up project was to provide law enforcement authorities dealing with child victims of trafficking with specific skills in combating trafficking in children, to identify good practices on combating child trafficking to be presented in a Resource Book, as well as to strengthen regional and international cooperation among the participating countries.

50. The main activities consisted of a rapid assessment on the situation of child trafficking, the elaboration of a resource book for law enforcement officers on good practices in combating child trafficking via working groups of experts and an international training seminar. The Resource Book for Law Enforcement Officers covers the following specific topics: interviewing techniques, investigative methods, cooperation between the law enforcement and NGOs/social services, and age assessment/identification of the child. (The Resource Book is available online in the Publications Section of the IOM Vienna webpage - [www.iomvienna.at](http://www.iomvienna.at)).

51. The International Training Seminar for Law Enforcement Officers on Combating Child Trafficking in March 2006 brought together some 110 participants from the law enforcement authorities from 39 countries. The Resource Book was distributed and used as training material during the training seminar. The International Training Seminar culminated in the high-level conference Combating Trafficking in Human Beings, Especially Women and Children: Prevention - Protection - Prosecution, which was hosted by the OSCE. During this conference, the results and recommendations of the project were presented to a wide audience of around 400 participants. The recommendations were also presented by the Austrian Council Presidency to the EU Council on Justice and Home Affairs from 27 to 28 April 2006.

52. In 2006/2007 police officers of Austria and the Czech Republic - especially of the border regions - received special training to combat transnational child prostitution/trafficking in the border regions (common project).

***Question 10. Please indicate whether special training, particularly social and psychological, is provided to persons working in the area of recovery and social reintegration of child victims of the offences under the Optional Protocol.***

53. The Platform Against Domestic Violence was founded in 1993 by the Federal Ministry responsible for family policy to enhance the prevention of violence within the family and also to professionalize the training of persons working in the area of recovery and social reintegration of child victims of any form of violence. Up to now about 30 organizations active in the fields of

prevention of violence and intervention against it, such as child protection centres, women's shelters, youth centres, and the like upgrade their work by networking and development of training programmes.

54. The Working Group on Child Trafficking has worked out a leaflet with indicators to identify victims of child trafficking. This leaflet will be distributed among employees of the youth welfare offices, the police and foreign offices to raise awareness and to support the identification of victims of trafficking of children.

55. As described in more detail in the report of the Working Group on Child Trafficking (see Annex), Austria supports the youth welfare authorities in the most important countries of origin of victims of trafficking coming to Austria by capacity-building of professionals working in 4 Bulgarian and 16 Rumanian protection centres. By strengthening the cooperation and supporting child protection services in the home countries a reduction of victims of trafficking in Vienna by 80 per cent could be achieved.

## Annex

### REPORT BY THE WORKING GROUP ON CHILD TRAFFICKING UNDER THE TASK FORCE ON HUMAN TRAFFICKING

#### “Prevention of trafficking in children and protection of the victims of child trafficking”

#### Introduction

1. According to estimations by the United Nation’s Children’s Fund (UNICEF) 1.2 million children are victims of trafficking in children<sup>a</sup> worldwide. Austria is affected by child trafficking both as a transit and a destination country. Because of its clandestine nature it is very difficult to determine exact figures on the actual scope of child trafficking. Moreover, it is sometimes impossible to differentiate clearly between unaccompanied refugee minors (URMs) and/or unaccompanied alien minors, minors who entered a country illegally (with human smugglers) and victims of child trafficking.

2. Cases in which children are clearly identified as victims of trafficking usually involve children from South East Europe (inter alia from Bulgaria, Romania, Moldova, Serbia and Slovakia) but also from Africa and Latin America who are sold by their parents - mostly under false pretences - to human traffickers. These abuse and exploit minors/children under the age (the age of criminal responsibility in Austria is 14 years) and young persons/children of age (14 to 18 years) and force them to engage in various activities in Austria, including begging, theft and pickpocketing, prostitution and other types of forced labour or make a profit in adoptions, trafficking or marriage brokerage of minors.

3. Poverty is considered the major root cause of trafficking in children. Children are particularly at risk of being sold or exploited when the level of formal education is low, and violence as well as addictive behaviour in the family add to the lack of prospects offered by the social environment. In order to be able to give more detailed consideration to the complex topic of child trafficking, the Task Force on Human Trafficking suggested that a separate working group on child trafficking be established. Under the National Action Plan against Human Trafficking (item 1.5) it was subsequently decided to set up relevant working groups on demand, such as the Working Group on Child Trafficking.

4. As child trafficking is only a facet of human trafficking, the other relevant measures included in the National Action Plan against Human Trafficking are also important for

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<sup>a</sup> In line with the Convention on the Rights of the Child the term *child* means every human being under 18 years of age. Terminology: For the purposes of the present text, the term “*victim of trafficking in children*” shall mean young persons who are victims in a concrete context, without denying their self-competence and resources. The term “*Betroffene von Kinderhandel*” (*affected by trafficking in children*) frequently used in German is too vague in this context, since it includes all those involved.

combating trafficking in children. An overview of the measures taken and activities to be launched by Austria in the fight against human trafficking is provided by the First Austrian Report on Combating Human Trafficking (first report covering the period from March 2007 to March 2008), which was prepared by the Austrian Federal Ministry For European and International Affairs in accordance with item 7.1 of the National Action Plan against Human Trafficking.

5. Mandate of the Working Group: In line with the National Action Plan against Human Trafficking the mandate of the Working Group on Child Trafficking covers the following tasks: discussing developments, elaborating and preparing solutions, and engaging in monitoring activities in order to make sure that the planned activities are implemented in a results-oriented and sustainable manner.

6. Prevention and protection of victims represent central topics for which proposals for concrete actions had to be prepared. Under the National Action Plan against Human Trafficking the following items represented aspects for consideration within this context:

(a) Prevention: Awareness-building and sensitizing of law enforcement and border management officers in the field of human trafficking (item 2.5);

(b) Protection of victims: Reviewing the existing witness protection programmes of the Federal Ministry of the Interior with a particular view to the topic of human trafficking and reviewing the implementation and enforcement of specific measures relating to trafficking in children (item 3.5);

(c) Reviewing the need to establish a supra-regional victim protection centre for unaccompanied minors/young persons (item 3.7);

(d) Preparation of a coordinated support programme for victims of human trafficking and child trafficking in particular (item 3.10);

(e) Specific data collection (item 7.2).

7. Participants: Representatives of the following institutions participate in the Working Group: Federal Ministry of Health, Family and Youth (leader of the Working Group), Federal Ministry for European and International Affairs, Federal Ministry of the Interior, Federal Ministry of Justice and the governments of all nine Austrian Federal Provinces. The Austrian National Action Plan against Human Trafficking welcomes the involvement and promotion of NGOs active in this field and appreciates their inclusion in connection with the implementation of individual measures set out in the Action Plan. Hence representatives of ECPAT-AUSTRIA (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), LEFÖ-IBF (Intervention Centre for Migrant Women Affected by Human Trafficking) and the BIM (Ludwig Boltzmann Institute of Human Rights) participate in the Working Group on Child Trafficking.

8. The Recommendations for the Treatment of Trafficked and Unaccompanied Children (*Empfehlungen im Umgang mit Opfern des Kinderhandels und unbegleiteten Kindern*) prepared

jointly by UNICEF Austria, IOM Austria, FICE (Children's Rights Office Austria of the International Federation of Educative Communities), ECPAT Austria, LEFÖ-IBF, BIM and Norbert Ceipek were adopted as a discussion paper by the Working Group.

## 1. Legal basis

9. Austria is a contracting party of all relevant legal instruments against human trafficking. Obligations to protect children arise in particular from the Convention on the Rights of the Child (1989)<sup>b</sup> and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)<sup>c</sup>, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)<sup>d</sup>, the Council of Europe Convention on Action against Trafficking in Human Beings (2005)<sup>e</sup>, and of the relevant EU instruments in the fields of human trafficking and sexual exploitation of children.

10. The Law Amending the Criminal Act of 2004 implemented the obligations on the prevention of and fight against human trafficking including the measures for the protection of victims under the agreements and conventions at the level of the United Nations, the European Union and the Council of Europe (in particular Criminal Code par. 104a).

11. The Austrian legislation is in principle suited to protect children from the multifaceted phenomena of child trafficking. Currently, however, there is no uniform nationwide approach applicable on the entire Austrian territory regarding a national coordination or care and support concept for victims of child trafficking in line with international standards (see *NRM - National Referral Mechanisms, similar to OSCE/ODIHR, National Referral Mechanisms - Joining Efforts to Protect the Rights of Trafficked Persons, A Practical Handbook, 2004*).

## 2. Definition of trafficking in children

12. The definition of trafficking in human beings as set out in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000) has become largely recognized. Within the meaning of article 3 of this protocol (also known as the Palermo Protocol):

(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of

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<sup>b</sup> Federal Law Gazette No. 7/1993, entry into force in Austria: 5 September 1992.

<sup>c</sup> Federal Law Gazette III No. 93/2004, entry into force in Austria: 6 June 2004.

<sup>d</sup> Federal Law Gazette III No. 220/2005, entry into force in Austria: 15 October 2005.

<sup>e</sup> Federal Law Gazette III No. 10/208, entry into force in Austria: 1 February 2008.

a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under 18 years of age.

13. This definition is complemented by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000). Article 2 (a) reads:

“Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”

14. Article 3, paragraph 1 of the Protocol reads as follows:

“Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

(a) In the context of sale of children as defined in article 2:

(i) Offering, delivering or accepting, by whatever means, a child for the purpose of:

(a) Sexual exploitation of the child;

(b) Transfer of organs of the child for profit;

(c) Engagement of the child in forced labour;

(ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.”



15. The Council of Europe Convention and the relevant European Union legislation (for instance the European Union Council framework decision on combating trafficking in human beings of 2002) also refer to these standards.

16. Moreover the Working Group on Child Trafficking also considers the characteristics and indicators set out in the Resource Book for Law Enforcement Officers on Good Practices in Combating Child Trafficking, a manual prepared by the Federal Ministry of the Interior and IOM, to be viable approaches for the work of law enforcement officers and youth welfare services. This manual also makes reference to a number of definitions that are used in several national and international contexts (Convention on the Rights of the Child, United Nations High Commissioner for Refugees, European Union, Palermo Protocol).

17. Consequently, the term “victims of child trafficking” covers all those minors who are exploited through: work under slave-like conditions, forced labour, domestic servitude, begging, sexual exploitation (including pornography and cyber-pornography), theft and petty crimes, drug trafficking, trafficking in organs, illegal adoption and marriage brokering.

### **3. Prevention: awareness-raising, training and further education, PR work (item 2.5 of the National Action Plan)**

18. A high level of awareness and basic knowledge among the competent authorities, the public at large and the media in the countries of both origin, transit and destination are indispensable in preventing child trafficking on the one hand and protecting its victims on the other.

19. Knowledge and awareness of the phenomenon is necessary in order to be able to recognize and identify potential victims. To this end it is necessary for the authorities’ staffs to participate in the relevant training and further training seminars to learn more about typical features and behaviour patterns of both victims and perpetrators. The syllabus of such seminars should also contain sharing of information on the specific types of exploitation of children (see definition) in the assessment of which it is irrelevant whether the child consented or was merely accompanied by an adult. In connection with an intervention or action by the competent authorities the following aspects are particularly important: (a) protection of the child against further exploitation and safeguarding the child’s best interests and well-being; (b) identification and legal authority of the respective accompanying person and (c) criminal prosecution of the responsible offenders, who often have a background in organized crime.

#### **3.1 Awareness-raising, training and further education**

20. In order to be able to protect victims of trafficking in children it is necessary to be able to identify them as such. The authorities’ representatives within the Working Group stated that it is often difficult to differentiate between unaccompanied refugee minors (applicants for asylum and refugees within the meaning of the Geneva Convention), unaccompanied children who entered a country with human smugglers and victims of trafficking in children.

21. In this spirit the primary task in terms of training and further education seminars consists in communicating a uniform definition. In its seminars the Federal Ministry of the Interior thus uses the above-mentioned manual entitled *Resource Book for Law Enforcement Officers* (para. 16).

22. In order to raise awareness among law enforcement officers (and particularly border management officers), the topic of trafficking in human being was included in the mandatory basic training seminars for all police officers.

23. The following in-service training seminars for multipliers were held by the Federal Ministry of the Interior and by ECPAT:

(a) During Austria's Presidency of the EU the Federal Ministry of the Interior and IOM held a three-day training workshop under an AGIS project (European Commission project to prevent violence) in March 2006 in which some 70 experts from 20 countries participated. The workshop's agenda focused on risk analysis, investigative methods, age determination and assistance to victims;

(b) The Federal Security Academy organizes additional in-service training seminars to raise and promote awareness of law enforcement officers and multipliers using the manual as the basic training material;

(c) Intelligence instructors who have specific training in combating human trafficking teach the topic of human trafficking as part of criminalistics in the basic training syllabus at Austrian police training centres;

(d) In cooperation with the Ministry of the Interior, ECPAT Austria conducts a multi-stakeholder training seminar for practitioners. The two training seminars held to date (in December 2007/January 2008) focused mainly on law enforcement staff, employees at youth welfare organizations, women's shelters, refugee organizations, and similar bodies. Members of the Task Force on Human Trafficking and the Working Group on Child Trafficking promoted participation in this training seminar among their colleagues.

24. The concerns and topics dealt with by the Working Group on Child Trafficking were presented to the federal provinces' leading division executives concerned with youth welfare at a round-table discussion held twice a year with the youth welfare authorities (*Jugendwohlfahrtsträger*). The topics discussed included awareness-building, the data of youth welfare statistics, opinion-shaping on the potential need for a supra-regional victim protection centre (Federal Ministry of Health, Family and Youth, 7 May 2008). As central multipliers the division executives will disseminate the information material prepared by the Working Group (checklist) in their offices.

25. In their meeting on 28 April, the Chairman of the Governors' Conference handed over to his fellow governors a letter on trafficking in children prepared by UNICEF<sup>f</sup> and asked them to

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<sup>f</sup> The letter prepared by the participants of the "Round Table on Trafficking in Children" (Federal Ministry of the Interior, ECPAT, FICE, ICMPD, IOM, LEFÖ-IBF, UNICEF and UNDOC) incepted by UNICEF in 2007, outlines that trafficking in children is a nationwide problem in Austria and therefore requires a nationwide, coordinated response involving a nationwide care and support concept and further outlines that the relevant authorities often lack awareness and the necessary knowledge that would enable identification of children affected by trafficking.

“pay special attention to this sometimes neglected problem”. The political awareness of the Province Governors to this problem contributes substantially to sensitizing the public at large and to the relevant PR activities.

26. The following implementation steps are recommended:

(a) All relevant players (including, for instance, law enforcement, the public prosecutors, justice authorities, public and private youth welfare organizations, alien and asylum authorities, the health-care sector, educational authorities, personnel seconded and serving abroad, NGOs) are sensitized in basic training and further training seminars on the topic of trafficking in human beings, particularly children;

(b) In all federal provinces an increasing number of staff employed by youth welfare authorities will receive specific training on the topic of trafficking in children thus increasing the level of information and knowledge on this issue among the relevant staff in order to raise awareness of this problem and prepare adequate means of responses and solutions;

(c) Based on the comprehensive written material on the topic of trafficking in children (manual/training material) a concise information folder will be prepared. This folder includes basic information/indicators (a checklist) for all personnel employed in youth welfare, the police forces and the public prosecutor’s department. It will be available at the relevant agencies and offices and aim at facilitating identification and assisting staff in taking the first essential steps.

### **3.2 Awareness-raising among the general public and PR activities**

27. Awareness-raising is the primary task in combating child trafficking. “Our key partner in this endeavour is the media. We can improve outreach not by pressure and power, but through education and the promotion of human rights values and principles in all social strata.” (Eva Biaudet, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, press release of 29 October 2007).

28. An educational toolkit on the topic of Human Rights and Trafficking in Women and Young People - the European Dimension of a Human Rights Violation (*Der Handel mit Frauen und jungen Menschen - Europäische Dimensionen einer Menschenrechtsverletzung*) prepared by the Ludwig Boltzmann Institute of Human Rights, La Strada, the University of Padua and other partner organizations under a EU-DAPHNE project is offered and made available to schools by the Federal Ministry of Education, Art and Culture and retrievable at the [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at) webpage or from La Strada at <http://www.lastradainternational.org/?main=documentation&document=1654>.

29. The BMI.BK (Federal Ministry of the Interior - Federal Criminal Police Office) has launched an information campaign on the topic of human smuggling to raise the general public’s awareness to the topic of smuggling of children.

30. On the occasion of the EU Anti-Trafficking Day on 18 October 2007, the Federal Ministry for European and International Affairs organized and hosted an event on Joining Forces Against Human Trafficking (*Gemeinsam gegen Menschenhandel*) during which the competent departments drew public attention to this particularly grave violation of human rights.

31. On the [www.kinderrechte.gv.at](http://www.kinderrechte.gv.at) webpage a special section will be dedicated to trafficking in children, thus making available information on this topic to the public at large.

32. Various implementation steps have been recommended. All forms of trafficking in children have to be addressed within the framework of the relevant PR activities. It is therefore necessary to raise public awareness of child prostitution and beggars but also of exploitive labour, illegal activities, trafficking in organs, and illegal marriage brokering by organizing inter alia:

- (a) Information events directed at representatives of the media;
- (b) Information campaigns to raise awareness among the public at large;
- (c) Information events at school and extra-curricular information events (in cooperation with children and youth organizations); and
- (d) Awareness-raising directed specifically at the relevant target-group in order to reduce demand for victims of child trafficking (i.e., child labour, forced sexual services, adoption).

### **3.3 Prevention by information and strengthening awareness of children's rights**

33. Strengthening the child's/young person's individual competence is a very important goal in the context of preventing sexual exploitation. This is specifically supported by the ability to relate and communicate, which is taught in the subject of sexual education at schools. To this end a large amount of relevant information is already being made available including teaching material and brochures, which also inform of counselling, support and assistance facilities.

34. Moreover, all children will continue to be informed of their statutory right to protection from violence and exploitation. Information on and knowledge of the Convention on the Rights of the Child is to strengthen the position of children and enable them to exercise their rights. Activities and measures aimed at strengthening children's awareness of their rights include competitions at school, dissemination of information material, and advertising the existence of the children's rights portal.

### **3.4 Prevention by assistance and support in the countries of origin**

35. The fight against human trafficking is a top priority on the agenda of Austrian Development Cooperation. Alongside protection of victims and prosecution of offenders the Austrian Development Agency (ADA) focuses in its relevant activities on prevention. A number of projects (all based on the human rights approach) launched in South East Europe have been co-funded. These projects involve the preparation and implementation of programmes aimed at protecting children as well as building up capacities among public prosecutors and improving transnational police cooperation.

- (a) Terre des Hommes "Transnational Action against Child Trafficking" (TACT III) (EUR 350,000): project aimed at combating the exploitation and abuse of children in Albania and protecting these children as well as reintegrating trafficked children. The interventions take place at community level in order to build up a functioning and sustainable child protection programme;

(b) Catholic Relief Services: (EUR 78,984): project aimed at offering training and income perspectives/opportunities to girls and young women in Bosnia and Herzegovina and Moldova and strengthening them to decide in favour of a life in safety and security;

(c) UNICEF: (EUR 350,000): project aimed at combating trafficking in women and girls in Albania. The project's goal is to guarantee the rights of trafficked women and girls as well as groups at special risk to human trafficking (e.g. orphans) and to offer them access to prevention and protection facilities in Albania including the prospect of reintegration. These measures also contribute to establishing appropriate strategies within the child and family protection system in Albania;

(d) Project on police cooperation between Austria and a number of South East European countries to combat trafficking in human beings (EUR 1.9 million): training and capacity-building;

(e) ORDSE: (EUR 39,000) programme for the protection of children and young persons in Moldova: training programme which aims inter alia at avoiding that young women are affected by human trafficking, particularly by offering income-generating prospects;

(f) Within the framework of EU-funded projects (AGIS, CARDS) the Ludwig Boltzmann Institute of Human Rights conducts projects in South East Europe (for instance in Croatia and Romania), which aim at strengthening national capabilities in fighting human trafficking and protecting victims including offering social support to children who have fallen victim to human trafficking.

36. The following implementation steps are considered useful:

(a) Continued funding of awareness-raising campaigns in the countries of origin by the Federal Government's Development Cooperation Programme with the support of the international community;

(b) Planning and implementing training seminars on measures to prevent trafficking in children directed at authorities and other persons involved in the countries of origin; and

(c) Organization of awareness-raising campaigns in the countries of origin and specifically directed at particularly vulnerable groups, such as Roma and Sinti, by using and involving several media including, for instance, Roma radio broadcasting stations.

**4. Victim protection in the context of law enforcement and criminal prosecution:  
Review of the existing victim protection programme of the Federal Ministry of the Interior with a particular view to the topic of human trafficking and review of the implementation of specific measures relating to trafficking in children (item 3.5 of the National Action Plan)**

37. The implementation of the witness protection programme in force was evaluated by the Task Force on Human Trafficking. The report prepared by this Task Force (chap. 3.5) states that "taking into account the specific problem of human trafficking, the current set of laws and legal

provisions are deemed to be sufficient in order to guarantee the protection of witnesses who are eligible for inclusion in the witness protection programme. In addition, it is considered necessary that the Task Force on Human Trafficking concerns itself with the protection of victims who do not fulfil the necessary prerequisites for inclusion in the witness protection system or do not want to be included in it”.

38. Since it is impossible to draw a clear line between victim protection and witness protection when children are concerned, the interaction and cooperation between judicial authorities, police forces and youth welfare authorities is to be reviewed. If a specific witness protection programme for children is prepared, youth welfare authorities institutions will be involved.

## **5. Review of the need to establish a supra-regional victims protection centre for unaccompanied minors (item 3.7 of the National Action Plan)**

### **5.1 Analysis of the current situation**

39. In order to be able to determine how many children in Austria have fallen victim to child trafficking; how they are being identified; how the individual authorities deal with the trafficked children; what care/support and assistance measures are applied; in which programmes they are included and by whom the relevant measures are funded; where problems lie and what is needed and required, all the federal provinces were asked to submit the relevant information. To date, the provinces of Vienna, Lower Austria, Upper Austria, Styria, Salzburg, Tyrol and Vorarlberg have submitted written statements that convey the following picture of the Austrian situation with respect to child trafficking.

#### **5.1.1 Summaries of statements submitted**

40. Vienna. - According to figures made available by the *Drehscheibe* (a centre operated by the City of Vienna/Vienna youth welfare authority for victims of child trafficking and unaccompanied alien minors. The institution is based on the Youth Welfare Law of 1990) the number of unaccompanied minors/children under age without fixed abode who were used for criminal activities in Vienna (mainly theft but also prostitution) before being apprehended by the police and subsequently harboured by the *Drehscheibe* amounted to 315 in 2004, 701 in 2005, 319 in 2006 and 72 in 2007. (According to the *Drehscheibe* this decline is *inter alia* attributable to the fact that the *Drehscheibe* and the Bulgarian authorities cooperate particularly well.) Some children were even admitted several times - frequently under new names and with altered appearance.

41. Lower Austria. - Because of specific conduct and behaviour patterns displayed by minors accommodated at special refugee institutions (Care Centre East/Traiskirchen; *Betreuungsstelle Ost/Traiskirchen*), it is assumed that child trafficking could be involved in a number of cases in Lower Austria. To date, however, there has not been a single case in which it was possible to clearly determine that the child had been a victim of trafficking.

42. Upper Austria. - The number of identified cases of unaccompanied refugee minors is on the decline in Upper Austria. It is assumed that minors avoid staying at refugee accommodations.

43. Styria. - Not a single case of child trafficking has been reported to the Regional Police Command of Styria. The department for refugee matters at the Styrian Province Government is, however, aware of several cases every year in which forced marriage of female Islamic minors, particularly Chechen girls, might be involved. The number of unreported cases, however, is assumed to be higher, but as these cases occur within the immediate family and are not reported to the police, no further information is available.
44. Salzburg. - There was one identified case of child trafficking in the Province of Salzburg in 2006.
45. Tyrol. - The province reported cases of unaccompanied minors from North Africa, India, Romania and China, among other countries, where the involvement of child trafficking was suspected.
46. Vorarlberg. - There was no case of child trafficking detected in Vorarlberg.
47. The provinces of Burgenland and Carinthia did not submit reports.

### **5.1.2 Identification of cases**

48. It is difficult to identify cases of child trafficking. As outlined above, it is not always possible to differentiate clearly between victims of child trafficking, unaccompanied minors seeking asylum and minors who entered the country illegally (with human smugglers). One of the reasons is that these children and young persons are rarely willing to make more detailed statements about possible relationships of dependence or the specific circumstances of their presence. Fear of immediate reprisals directed against themselves or their family members at home as well as general distrust of authorities are among the main underlying causes of their refusal to accept measures aimed at victim protection and to give evidence against child traffickers.
49. Moreover, police officers frequently detect victims of child trafficking initially as “offenders” of some kind. They are apprehended when stealing, pickpocketing or committing some other petty crime and usually do not act in a manner that one would typically associate with “victims”. In such cases the authorities should not rely on first impressions but give these cases deeper consideration to determine the underlying reasons for such behaviour and activities (coercive context).
50. Analyses in the federal provinces have shown that numerous minors who have applied for asylum and whose relevant procedures are still pending engage in contacts that are indicative of a relationship of dependence. Often bound in some kind of a “modern” form of servitude/bonded child labour, they are exploited in a wide variety of ways (begging, prostitution, labour [selling flowers and the like, domestic work, ...], crime [theft, drug trafficking]). Another form of dependence is reported mainly by the Federal Provinces of Lower Austria and Upper Austria, where refugee care and support institutions have identified cases that might involve child trafficking.

51. In addition, mostly girls from the former Yugoslavia (in the majority of cases from the Bosnian region) and from Chechnya come to Austria to be married to men who are usually from ethnic Roma groups (Lower Austria and Styria).

52. One unclear case of adoption that suggested child trafficking was also reported (from Lower Austria).

53. Metropolitan Vienna is particularly familiar with trafficked children who are sent into the streets to steal, beg and prostitute themselves. NGOs have reported such cases in other province capitals as well.

54. Tyrol does not consider identification to be the primary issue but rather first providing appropriate accommodation, support and care in the interests of child welfare. Employing the services provided by the clearing house of *SOS Kinderdorf* (SOS Children's Villages) has proved very beneficial in providing primary care. Unaccompanied alien minors are accommodated there for up to two months. During this period questions relating to their status are clarified and it is determined what kind of support is needed. Then children are transferred to the institution in Tyrol that best meets their specific requirements. This procedure could in principle also be applied to victims of child trafficking, the only open issue being the funding - since the children affected do not (always) represent the target group for the provision of basic welfare support.

55. Upper Austria cooperates with the Care Centre East (*Betreuungsstelle Ost*) and the police forces; an institutionalized system of networking has already been launched.

56. Alongside detecting children as victims of child trafficking, the authorities attribute importance to identifying the individual. In this context the determination of the child's age is important for the purpose of protection, because child traffickers pretend that the trafficked children are either younger than they actually are to make it easier to use them for illegal activities (like theft and pickpocketing) or older than they are in order to be able to exploit them for the purposes of prostitution.

57. The following implementation steps are recommended:

(a) In order to determine the concrete need for a supra-regional victim protection institution, it is necessary to gather and analyse additional information on the relevant situation in the federal provinces (problem awareness, structures, etc.);

(b) See consideration of item 7.2 of the National Action Plan against Human Trafficking in section 7 below.

### **5.1.3 Intercountry adoptions**

58. Legal intercountry adoptions can, provided that they comply with the relevant technical standards and the principle of subsidiarity, represent a means of protecting children. If the child's home country decides that an intercountry adoption represents an adequate opportunity to help a child then it is within the responsibility of the youth welfare authority to determine whether a family is eligible for an intercountry adoption and can offer the child optimal development opportunities.



59. Children have the right to a legal and transparent adoption procedure involving the highest level possible of documentation on their origin and background. This way the risk of children being abused for business interests and consequently falling victim to child trafficking is reduced. In order to improve these procedures, standards for handling intercountry adoptions are currently being prepared by both the Contracting States and countries that are not parties to the Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption (The Hague Adoption Convention).

60. Regulations on more effective verification procedures to determine the authenticity of the child's documents from his/her country of origin by a structured cooperation procedure between the embassies and the Federal Ministry of the Interior are important for the recognition of adoptions in Austria.

61. One case of an intercountry adoption where circumstances were detected which require further clarification in the child's home country was reported from Lower Austria. In response to this event, the Federal Ministry of Justice convened a working group involving all relevant central authorities under The Hague Convention and charged with preparing binding nationwide standards for the handling of intercountry adoptions from Contracting States and countries that are not parties to The Hague Convention.

62. Along with elaborating standards for adoption placement and the recognition of adoptions in Austria, particular attention is paid to assessing the process of the adoption procedure and the authenticity of documents (i.e. document security) in the children's home countries.

63. Under no circumstances shall the purpose of intercountry adoption be to fulfil the desire of people from industrialized countries to adopt a child, nor does it represent an adequate means of combating global poverty.

64. The following implementation steps are being recommended:

(a) To specify in concrete terms in the Federal Youth Welfare Act (*Bundes-JWG*) the tasks to be assumed by the youth welfare authority in the field of intercountry adoptions;

(b) To effect cooperation among the competent ministries in order to screen intersecting issues and material relating to the Federal Ministry of Health, Family and Youth, Federal Ministry of Justice, Federal Ministry of the Interior, Federal Ministry for European and International Affairs (and the Federal Ministry of Social Affairs and Consumer Protection) and to elaborate measures aimed at the best possible protection of children from child trafficking;

(c) To analyse the need for a specific law on adoptions of children from abroad, regulating placement and support by State-certified associations and banning Internet and third country placements of children;

(d) To maintain a uniform nationwide system of statistical registration of all intercountry adoptions.

## 5.2 Protection/shelter and care facilities

65. The Federal Youth Welfare Act, which stipulates the principles and the relevant implementation acts adopted by the Federal Provinces, creates the legal basis for the care of unaccompanied alien minors. According to these laws the youth welfare authority has to undertake to provide for the necessary protective measures, including legal representation, provision of accommodation and food - i.e. taking over custody if there is a risk that a minor's well-being may be jeopardized, even if a child is not habitually a resident of this federal province. This obligation is derived from The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoptions.

66. The basic welfare support system provides for a regulated, nationwide care scheme in Austria for unaccompanied refugee minors (standards differ, however, substantially across the country). The costs for the care and support of minors under the basic welfare support system are born jointly by the Federal Government and the individual province (6:4). The costs for unaccompanied alien minors that are not covered by the basic welfare support system are in general borne by the youth welfare authority, the federal province (co-funded by the municipalities) and/or the social welfare associations (Upper Austria).

67. Depending on the level to which they are affected and the perception of the problem, the federal provinces adopt different approaches towards dealing with the target group:

(a) In the Federal Provinces of Lower Austria, Salzburg, Tyrol and Vienna, care and support of unaccompanied alien minors who are not covered by the basic welfare support system is provided by and in youth welfare facilities;

(b) Lower Austria tries to differentiate according to the children's age and offer specific age-related care and support to unaccompanied alien minors. Alien minors of age are usually sent to special care facilities, established by the youth welfare authorities for this specific target group. The costs incurred are largely reimbursed by the basic welfare support system for aliens requiring assistance, shelter and protection. Support and care to underage alien minors is usually provided for in youth welfare institutions where they are together with Austrian children. If the relevant costs exceed those for the provision of the basic welfare support system these will be borne by the Lower Austrian youth welfare authority. If the Lower Austrian youth welfare authority is of the opinion that unaccompanied alien minors require support and care and they are not entitled to basic welfare support, the costs incurred for care and support are fully borne by the Lower Austrian youth welfare authority;

(c) In Upper Austria support and care to unaccompanied alien minors is provided by special institutions under the refugee support system;

(d) In Tyrol unaccompanied alien minors support and care is provided under the basic welfare support system or by the youth welfare authority. Following the establishment of a special Counselling and Coordination Unit for Unaccompanied Alien Minors (*Beratung und Koordination für unbegleitete minderjährige Fremde*) at the youth welfare department, all relevant information is bundled there and interventions are channelled through this unit.

Protection is considered more important than the letter of the law. Precedence is given not to the reason why the child was admitted to youth welfare but rather to safeguarding the child's best interests and welfare. However, the problem this position entails is that it is impossible to detect perpetrators without police intervention and that children continue to remain caught in this vicious circle of crime if they run away from these institutions;

(e) In Vienna, minors who are not resident in Vienna and are apprehended by the police because of stealing, pickpocketing or begging etc., are sent to *Drehscheibe*, a socio-pedagogic institution. *Drehscheibe* provides these children with accommodation, shelter, food and protection and tries to determine their identity and learn more about each child's individual personal story. If possible, they are returned to their country of origin, while safeguarding the best interests of the child.

### **5.2.1 Discussion: Is there a need for a supra-regional victim protection centre?**

68. The importance of this topic was explicitly stressed in this discussion. Vienna and Lower Austria voiced the following arguments in favour of establishing a supra-regional "victim protection/competence centre" for victims of child trafficking:

(a) A supra-regional victim centre would enable efficient handling of all cases in Austria, saving resources by bundling competences, reduce interpreting costs, and the like;

(b) Moreover, accommodation in regular youth welfare facilities is costly and funds could be used more efficiently and target-oriented instead. (Victims of child trafficking require different care and support than the children usually in the care of Youth Welfare.);

(c) The guiding principle of youth welfare, according to which care and support should be provided as close as possible to the child's place of residence, does not apply to victims of child trafficking, since children often come to a place by chance and since contact with their reference person (child traffickers, human smugglers) is not in the best interest of the child. The affected children's safety could be safeguarded more effectively if they were accommodated outside of the immediate vicinity of child traffickers in order to disrupt the vicious circle of crime;

(d) The establishment of points of first contact (*Erstanlaufstellen*) in every or at least in some federal provinces (regional competence centres) is considered an alternative to a specialized central support and care facility (victim protection centre);

(e) However, even if the regional competence centre approach is adopted, it is considered necessary to establish a specialized supra-regional facility to which victims can be referred for the purpose of voluntary return. This model suggests the establishment of clear competences and responsibilities in the federal provinces and a uniform approach by all federal provinces (trafficking in children is a supra-regional problem) as well as good networking and cooperation among all federal provinces;

(f) It is necessary for the staff at such support and care facilities to acquire specialized knowledge in the field of child trafficking;

(g) As regards funding, models involving cost assumption statements (*Kostenübernahmeerklärungen*) applied in youth welfare or funding models applied to refugees are suggested as good approaches;

(h) Moreover it is necessary to establish clear rules and regulations for the cooperation between police and youth welfare in order to be able to safeguard the child's best interests and welfare and at the same time disrupt the vicious circle of crime.

### **5.2.2 Issues/problems arising in connection with safeguarding the child's needs within the framework of victim protection**

69. The following issues arose during the discussions held to date and require further clarification:

(a) What can be done to make sure that a minor's identity is more clearly determined? (they often alter their statements regarding their name, age and country of origin as well as appearance);

(b) What can be done to determine a child's age more precisely?

(c) What can be done to get minors out of this system of violence?

(d) What can be done to adequately determine the desires and needs of the affected minor (particularly as regards the system of care and accommodation) - case studies, interviews, anonymous feedback, etc.;

(e) What can be done to prevent the "disappearance" of affected minors from youth welfare institutions? Should this be prevented? What is the alternative?

(f) The question of whether a continued stay in Austria or an orderly return is more appropriate to safeguard the child's welfare and best interests has to be decided on a case-by-case basis. The fundamentals required for the adequate determination of this issue have to be created. In this connection account has to be taken of issues relating to a continued stay in Austria and the associated possibilities;

(g) The persons accompanying the child (child traffickers) are usually in possession of a written document enabling them to legally enter Austria legally with the minors. This document which only covers crossing the border into Austria is in some cases misinterpreted by the youth welfare institutions as a document through which child custody has been transferred to this person by the child's parents. What can be done to determine the accompanying person's legitimacy in a legally tenable manner?

(h) What can be done to identify illegal adoptions and produce evidence?

70. The following implementation steps are recommended: Continuation of the Working Group's relevant discussion with the aim of developing a concept for the systematic provision of care and support of children and adolescents who are victims of child trafficking in Austria. This

involves a clear assignment of tasks and mechanisms for cooperation between government bodies and NGOs (the basis being the National Referral Mechanism, mentioned below in section 8) by including all relevant players' expertise.

**6. Preparation of a coordinated support programme for victims of human trafficking and particularly child trafficking (item 3.10 of the National Action Plan)**

71. As soon as the provision of initial care (*Erstversorgung*) to the affected child has been ensured, it is necessary to develop longer-term future prospects by actively involving the child and by determining his or her best interests. These measures may include the continued stay and integration in the receiving country, an onward journey to a third country or the voluntary return to the country of origin. In the latter case the return has to be preceded by comprehensive risk assessment in order to guarantee the best possible reception by the child's family or the appropriate institutions and to ensure reintegration in the country of origin; the return has to be voluntary, documented, and coordinated between the relevant authorities protecting the affected child's data (IOM standards).

72. The *Drehscheibe* favours the following approach. An effort is made to return the child to the country of origin and reintegrate him or her as soon as possible. In this context the focus is on placing the children in special facilities in their home country under the protection of the national youth welfare authority. Over a period of six months the *Drehscheibe* requires the authorities of the country of origin to submit reports on the status of the child's reintegration. Naturally, the children are given the opportunity to get in touch with their parents. The embassy of the country of origin is involved in the return and reintegration processes and represents an important link to that country's social facilities.

73. The *Drehscheibe* undertook to assist Romania and Bulgaria in particular in reintegrating "returned" minors. Staff was specifically trained for this purpose and thus far 14 crisis centres have been established in Romania and 3 in Bulgaria. As a result of the excellent cooperation between the *Drehscheibe* and the relevant ministries in Bulgaria and Romania the number of unaccompanied children who are cared for by the *Drehscheibe* has declined substantially.

74. What the Working Group considered problematic was the fact that the support programme for the return is organized with a strong focus on persons and countries. Since it depends to a high degree on the commitment and the networking of the partners involved, the programme's sustainability is not sufficiently ensured. It is therefore recommended to create structures that guarantee a return in which the child's best interests are safeguarded irrespective of the personal involvement and commitment of individual personalities.

75. As an institution that is active on an international level, IOM offers assistance in the field of identification of victims and voluntary return in the interest of safeguarding the child's welfare and best interests. Because IOM has established networks in 40 countries, it can examine every case in each of these countries of origin. In countries where IOM is not represented with a regional office, this kind of assistance can be provided by UNICEF, thus avoiding duplicate structures. As IOM works on a contractual basis in these 40 countries, the programme's sustainability is largely ensured.

76. The youth welfare authorities' attention is increasingly drawn to the fact that an institution like IOM exists and to the services (psychosocial counselling, monitoring) it offers. The checklist for youth welfare authorities will explicitly refer to this offer.

77. The following implementation steps are recommended:

(a) Clear agreements on monitoring following return to the country of origin;

(b) Directives on adequate return approaches and procedures (determination of the child's best interests, voluntary nature of return, escort, etc.) prepared specifically for youth welfare authorities.

### **7. Specific data collection, statistics (item 7.2 of the National Action Plan)**

78. Little data is available on the topic of trafficking in children. Surveys by the Task Force on Human Trafficking and the Working Group on Child Trafficking reveal that, with the exception of Vienna, hardly any cases of child trafficking have been brought to the attention of authorities.

79. Data collection is difficult for a number of reasons: firstly, competences differ greatly from province to province and responsibilities are shared among different authorities. Secondly, the low level of awareness of the problem of child trafficking within each individual authority renders uniform communication and determination of facts difficult.

80. Potential victims of child trafficking are frequently treated as offenders (for instance by police forces when they apprehend minors for theft, drug trafficking or prostitution) or as illegal migrants and unaccompanied refugee minors. The measures taken depend on the individual approaches and the relevant resources.

81. The statistics currently used by the police forces do not identify victims of child trafficking clearly enough as such. Statistics on previous sentences take into account only the gravest offence for which a sentence was passed (thus far no sentence for human trafficking) and the records on regulatory offences describe these offences ("mother sitting with child begging") but do not give the relevant background information. Figures on illegal migration do not contain any information on the background, and data protection laws do not permit to the correlation of data from the districts/provinces statistics and their integration in a national database. Even the data of the Vienna youth welfare authorities do not differentiate between victims of child trafficking and the exploitation of children by parents/relatives (i.e. mothers begging with children).

82. An external high-quality assessment of the situation is considered indispensable for the establishment of appropriate structures, and European Union funding for such a project is being sought. With a view to the collection of reliable and comparable data in all EU Member States, Austria supports all activities within the EU aimed at developing standards, guidelines and directives on data collection concerning human trafficking. To this end Austria coordinates a specific project involving five other EU Member States, Europol, ICMPD and IOM. The findings should be available in the spring of 2009.

83. The following implementation steps are recommended:

(a) Assessment: External high-quality assessment of the situation in order to gain information on the structures in place for victims of child trafficking in the federal provinces. EU funding (Daphne project) should be sought for this purpose;

(b) Monitoring: Regular monitoring of the development of the numbers of children affected and the situation of victims of child trafficking by improving data collection processes;

(c) Police statistics: The statistics prepared by the police forces should differentiate between victims of human trafficking and human smuggling whenever such cases are reported to the police;

(d) Conviction statistics: Key data contained in conviction statistics is to state that child trafficking was involved;

(e) Special nationwide youth welfare statistics: Victims of child trafficking/dependence because of smuggling as well as all intercountry adoptions should be separately stated.

## **8. Catalogue of measures**

84. The Working Group has suggested to the Federal Government that a systematic concept for the provision of adequate care and support of children and young persons as victims of child trafficking be prepared. What is important in this context is that cooperation systems between all relevant governmental and non-governmental players be established. A National Referral Mechanism (NRM) would include the following measures.

### **8.1 Sensitizing and awareness-raising, education and further education**

85. All relevant players (for instance law enforcement officers, public prosecutors, judicial authorities, public and private youth welfare authorities, alien and asylum authorities, the health-care sector, personnel on assignment abroad, NGOs) are to be sensitized in their basic training or in further education seminars on human trafficking and child trafficking.

86. A larger number of youth welfare staff are to acquire special training on the topic of child trafficking. These enhanced skills are considered a prerequisite for adequate problem awareness and the preparation of the relevant solutions and response strategies. The aspect of “voluntary return” (offered by IOM) is an integral element in this connection.

87. Based on the comprehensive literature available (manual/handbook/training material) on the topic of child trafficking, a concise information folder (checklist) will be prepared for all staff working with the youth welfare, police and prosecution authorities. It will be made available at the relevant divisions and offices and aimed at facilitating identification and supporting important initial steps.

## **8.2 PR work**

88. All the phenomena of child trafficking have to be addressed in the public relations activities. Awareness has to be raised of child prostitutes and beggars as well as other forms of labour exploitation, illegal activities, adoption trafficking, trafficking in organs and illegal marriage brokering. Various activities could be envisaged: (i) information events for media representatives, (ii) information campaigns to raise the general public's awareness, (iii) information events at school and extracurriculum information offer (in cooperation with child and youth organizations) and (iv) target-group specific awareness building, in order to discourage demand for victims of child trafficking (child labour, sexual exploitation, adoption).

## **8.3 Prevention by offering assistance in the countries of origin**

89. Various projects could be conducted in the countries of origin:

(a) Continued funding of awareness-raising campaigns in the countries of origin through the Austrian Federal Government's Development Cooperation and supported by the international community;

(b) Planning and implementation of training and education seminars on measures to prevent trafficking in children to be organized for authorities and other involved persons in the countries of origin;

(c) Organization awareness-raising campaigns in the countries of origin for particularly vulnerable groups, such as Roma and Sinti, involving radio broadcasting stations in the Roma communities.

## **8.4 Assessment of the status quo**

90. In order to determine the concrete need for a supra-regional victim protection facility, it is necessary to collect data and additional information on the current situation (problem awareness, structures, ...) from the federal provinces (see section on awareness-raising/sensitizing).

## **8.5 Intercountry adoptions**

91. The following steps are recommended:

(a) Specifying the youth welfare authority's tasks in connection with intercountry adoptions in the Federal Youth Welfare Act (*Bundes-JWG*);

(b) Cooperating with the competent ministries in order to screen intersecting issues and material relating to the Federal Ministry of Health, Family and Youth, Federal Ministry of Justice, Federal Ministry of the Interior, Federal Ministry for European and International Affairs (and the Federal Ministry of Social Affairs and Consumer Protection) and to elaborate measures aimed at the best possible protection of children from child trafficking;



(c) Analysing the need for a specific law on adoptions of children from abroad, regulating placement and service by State-certified associations and banning Internet and third country placement of children.

### **8.6 Protection/shelter and care/support facilities**

92. The Working Group should continue the relevant discussion with the aim of developing a concept for the systematic provision of care and support of children and adolescents who are victims of child trafficking in Austria. This involves a clear assignment of tasks and mechanisms for cooperation between government bodies and NGOs (the basis being the National Referral Mechanism mentioned above) by including all relevant players' expertise.

### **8.7 Support programme**

93. A support programme should include:

- (a) Clear agreements on monitoring in the country of origin following the child's return;
- (b) Directives on adequate approaches and procedures in connection with returns prepared for the youth welfare authorities (including: determination of the child's best interests, voluntary nature, company, etc.).

### **8.8 Specific data collection**

94. The following steps would ensure the collection of reliable data:

- (a) External high-quality assessment of the situation in order to gain information on the structures in place for victims of child trafficking in the federal provinces. EU funding (Daphne project) should be sought;
- (b) Regular monitoring of the development of the number of victims of child trafficking and their situation by improved data collection;
- (c) Police statistics: Differentiation between victims of/people affected by human trafficking and victims of/people affected by human smuggling whenever such cases are reported to the police;
- (d) Conviction statistics: Key data is to state that child trafficking was involved;
- (e) Special nationwide youth welfare statistics: Victims of child trafficking/dependence because of smuggling as well as all intercountry adoptions are to be stated separately.

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