

Consolidated version of the *Bundesstatistikgesetz*<sup>1</sup>

*Bundesgesetz über die Bundesstatistik*<sup>2</sup>  
(*Bundesstatistikgesetz 2000*)<sup>3</sup> BGBl.<sup>4</sup> I, no. 163/1999,  
as amended by BGBl. I, no. 136/2001, by BGBl. I, no. 71/2003, by BGBl. I, no. 92/2007 and  
by BGBl. I, no. 125/2009

The National Assembly has decided:

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## Chapter One Introduction

### Section One Purpose and Definitions, Orders

#### Purpose

**Article 1.** Federal Statistics is the Federal Government's non-personal information system, which provides data on the economy, demography, environment and social and cultural situation in Austria to federal bodies to assist them with planning, laying the groundwork for decisions and controlling measures implemented, and also to the scientific community, business and the public.

#### Federal Statistics

**Article 2.** Federal Statistics compiles statistics of all kinds, and makes the associated analyses, forecasts and statistical models, so long as these are in the interest of more than one province.

#### Definitions

**Article 3.** For the purpose of this Federal Act, the following meanings apply:

1. **Statistic:** description and assessment of mass phenomena in quantitative terms;
2. **Population or sub-population:** total statistical units under statistical analysis;
3. **Statistical unit:** unit about which statistics are produced;
4. **Characteristics of analytical interest:** the characteristics of the statistical units analysed to produce a particular statistic;
5. **Compilation of statistics:** all the activities needed to compile, store, process, prepare, analyse, disseminate and provide statistical information;
6. **Flow statistics:** statistics for which particular data from statistical units has been collected at various times and then processed to ensure that any time-related changes in the characteristics of those units is evident;
7. **Statistical method:** the full set of scientific procedures used to obtain, present, process and analyse empirical data for use in conclusions, projections or decision-making;
8. **Statistical survey:** the collation of data to compile statistics;
9. **Full survey:** survey in which data is collated from all statistical units falling within the scope of the survey;
10. **Sample-based survey:** survey in which data is collected from only a proportion of the statistical units falling within the scope of the survey;
11. **Survey continuity:** frequency of data collation;
12. **Survey periodicity:** time between two data collation periods;
13. **Respondents:** natural and legal personalities obliged to provide information on a particular statistical unit;
14. **Data subjects:** natural and legal personalities whose characteristics are used in a survey;
15. **Personal and non-personal data:** data is personal if the data subject is, or can be, identified by the Federal Statistics body. Data is non-personal if the data subject cannot be identified through the reasonable use of means.
16. **Statistical data:** data collated in the course of a statistical survey by an institution appointed by legal act, pursuant to article 4 (1) no.1, or by Federal Act to perform statistical duties;
17. **Administrative data:** data collated by institutions in the performance of their duties under federal or provincial law, or under EU requirements that apply directly to them;
18. **Public registers:** registers that federal law requires to be open to the public;

19. **Federal Statistics bodies:** Statistik Österreich and those federal agencies appointed by legal act, pursuant to article 4 (1) no.1, or by Federal Act to collect data for use in the compilation of statistics;
20. **Enterprises:** natural persons (e.g. freelance workers under contract, freelancers), legal entities, partnerships, associations and societies
  - a. with an address, usual place of residence, headquarters or management board in Austria, that offer goods and/or services to the general public or a specific group of persons for a charge or perform tasks in the public interest or generate income pursuant to article 2 (3) nos.1 to 3 and 6 of the *Einkommensteuergesetz 1988<sup>6</sup> – EStG 1988, BGBl.<sup>7</sup>* no. 400/1988, and
  - b. without an address, usual place of residence, headquarters or management board in Austria, that generate income pursuant to article 98 (1) nos.1 to 3 and 6 *EStG 1988<sup>8</sup>*.

### Statutory statistics and surveys

**Article 4.** (1) Federal Statistics bodies compile statistics and conduct statistical surveys if so required by

1. an international legal act with direct national effect,
2. Federal Act, or
3. a regulation pursuant to (3) hereunder.

(2) A statistical survey and the compilation of a statistic will be ordered under federal law if federal law has at least determined the subject of the survey or statistic.

(3) Statistical surveys and the compilation of statistics may be ordered only if they are required for the performance of federal duties and if the work and cost involved in compiling the statistic are appropriate to the importance of the federal duty concerned. Statutory statistical surveys shall be restricted to data that is absolutely necessary to the purpose of the survey. Moreover, based on statistical requirements, the need for economy, cost-effectiveness and usefulness and to minimise the demands on respondents and Federal Statistics bodies while ensuring data protection, the regulation shall set out:

1. population or sub-population (article 3, no.2);
2. statistical unit (article 3, no.3);
3. characteristics of analytical interest (article 3, no.4);
4. reference day of the survey;
5. whether the survey will be conducted as a full survey (article 3, no.9) or, subject to determination of the criteria to be used to establish sample size (article 7), as a sample-based survey (article 3, no.10);
6. continuity (article 3, no.11);
7. periodicity (article 3, no.12);
8. which data on which populations should be collated and which should be in personal/anonymous format;
9. form of survey (article 6);
10. respondents' duty to provide information and co-operate (article 9),
11. registrars' and administrative and statistical data keepers' duty to co-operate (article 10),
12. co-operation of local authorities (article 11) and of district authorities (article 12).

(4) In the event an order issued pursuant to (1) no.1 or 2 hereabove does not cover all the provisions of (3) nos. 1-12, the missing provisions shall be covered by additional regulation.

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<sup>6</sup> 1988 Income Tax Act

<sup>7</sup> Federal Law Gazette

<sup>8</sup> 1988 Income Tax Act

(5) Insofar as regulations make reference to the *Güterverzeichnis für den produzierenden Bereich ÖPRODCOM* (catalogue of ÖPRODCOM production goods), the *Systematik der Wirtschaftstätigkeiten ÖNACE* (classification of ÖNACE economic activities), the *Grundsystematik der Güter ÖCPA* (classification of ÖCPA goods) and other nomenclatures for the classification of goods, services or undertakings, the federal minister responsible under article 8 hereunder may refer to the corresponding catalogues and classifications that at the time of enactment of the regulation are made available by Statistik Österreich for public inspection during Statistik Österreich office hours and are published on the internet.

### **Legitimacy of personal survey orders**

**Article 5.** (1) Regulations ordering personal surveys may be passed only as follows:

1. in the form of an order pursuant to article 4 (1) nos.1 or 2, or
2. concerning the subjects listed in Schedule I to this Federal Act.

(2) So far as (1) hereabove is concerned, personal surveys may be ordered by regulation for the following purposes only:

1. to control fulfilment of a duty to provide information;
2. to correct or complete information;
3. to merge data, obtained in different manners (article 6) during a statistical survey, on the same statistical unit;
4. to compile, complete or correct the register pursuant to article 25a hereunder;
5. to compile flow statistics by order pursuant to article 4 (1), nos.1 or 2;
6. to ensure international bodies are able to perform controls undertaken on the basis of an international legal act that is binding in international law,
7. relieving respondents of the need to respond to questions on the same characteristics of analytical interest in the event of repeated surveys within a short period of time, provided that no sensitive data within the meaning of article 4, no.2 of the *Datenschutzgesetz 2000*<sup>9</sup> is involved;
8. to compile the national accounts.

(3) The ordering by regulation of the collation of personal data from which the racial and ethnic origin, political opinions, religious or philosophical convictions or membership of a trade union may be adduced, or of data on health or sexuality is prohibited. Personal data of this kind may not be collated unless expressly ordered by Federal Act or legal act pursuant to article 4 (1), no.1. The aforesaid also applies to data collated to:

1. protect the constitutional institutions of the Republic of Austria, or
2. ensure the armed forces remain combat-ready, or
3. safeguard the defence of the country as a whole, or
4. protect material foreign policy, economic or financial interests of the Republic of Austria or of the European Union, or
5. prevent, or prosecute criminal offences.

(4) Moreover, the ordering by regulation of the collation of personal administrative data whose transmission is expressly restricted by law is prohibited.

(5) The collation of personal data may not be ordered by regulation unless the ensuing breach of data protection law is proportional in terms of the social or economic importance of the survey itself.

### **Forms of statistical survey**

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<sup>9</sup> 2000 Data Protection Act

**Article 6.** (1) Unless otherwise specified in an order issued pursuant to article 4 (1), nos.1 or 2, the following forms of statistical surveys may be ordered:

1. data collation from public registers (article 3, no.18);
2. administrative data collation (article 3, no.17);
3. statistical data collation (article 3, no.16);
4. data obtained by measurement, weighing and counting;
5. canvassing of respondents.

(2) Statistical surveys based on the canvassing of respondents may not be ordered unless the same purpose is unlikely to be achieved through the volunteering of information by the data subjects.

(3) Statistical surveys based on canvasses ( (1) no.5) may be ordered by regulation only if it is impossible to obtain data in the manner stated in (1) nos.1 to 3.

(4) If register consultation pursuant to article 3, no.18 is subject to justified interest, the collation of data constituting characteristics of analytical interest for a particular statistical survey ordered by regulation, or data collation for registers pursuant to article 25, are such justified interests.

### **Sample-based survey, sample size**

**Article 7.** (1) Unless otherwise specified by an order issued pursuant to article 4 (1), nos.1 or 2 :

1. surveys shall be ordered by regulation in sample-based form if the purpose so permits, and
2. the sample size shall be in line with the purpose of the survey and subject to national statistical interests.

(2) The sub-populations of the statistical units to be considered by the survey shall be selected on the basis of sample theory unless otherwise determined by an order issued pursuant to article 4 (1) nos.1 or 2.

(3) In the case of on-going surveys, the respondents included in samples should be rotated regularly to minimize the burden placed upon them.

(4) In the case of surveys pursuant to article 6 (1), nos.1, 2 or 3, a full survey may be conducted instead of a sample-based survey if the expense involved in producing a sample appears unjustified.

### **Orders by regulation**

**Article 8.** (1) Pursuant to article 4(3) and (4) and articles 5 to 7, regulations shall be issued by the federal minister with responsibility for the subject of the survey pursuant to article 2 (1) no.2 of the *Bundesministeriengesetz 1986*<sup>10</sup>, *BGBl.* <sup>11</sup> no.76. Should several ministers have responsibility for the subject of the survey under the *Bundesministeriengesetz 1986*<sup>12</sup>, the regulation shall be issued by all jointly. In the event the statistics or the statistical survey concerned are to be compiled or conducted by Statistik Österreich, the approval of the Federal Chancellor shall also be required.

(2) Prior to the issue of regulations pursuant to article 5 (1) no.2 the *Datenschutzrat* (Data Protection Council) shall be consulted.

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<sup>10</sup> 1986 Federal Ministries Act

<sup>11</sup> Federal Law Gazette

<sup>12</sup> 1986 Federal Ministries Act

## **Section Two Duty to co-operate**

### **Respondents' duty to co-operate**

**Article 9.** In the event of canvassing carried out pursuant to article 6 (1) no.5 or data compilation pursuant to article 6 (1) no.4, respondents shall:

1. provide full and timely information to the best of their knowledge on data constituting characteristics of analytical interest to the statistical survey ordered by regulation. Respondents may assign the fulfilment of their duties to a third party.
2. Unless so provided in an order made pursuant to article 4 (1) no.1 or 2, the officers responsible for the execution of the survey may not access premises, facilities or grounds, take samples and other survey material, conduct counts and measurements or vision documents of importance to the survey to the required extent.

### **Registrars' and administrative and statistical data keepers' duty to co-operate**

**Article 10.** (1) Public registrars (article 3, no.18) and administrative and statistical data keepers shall provide the data to the appropriate Federal Statistics body, if so provided by order pursuant to article 4 hereabove, or if data is required for the register pursuant to article 25a hereunder. When data is transmitted, the Federal Statistics body concerned shall be provided with:

1. definitions of characteristics,
  2. the manner in which the data has been collated, and
  3. the kinds of computation methods used
- as it requires.

(2) The transmission of data pursuant to (1) hereabove shall be effected free of charge and on an electronic medium if the data is in electronically readable format. The Federal Statistics body shall be given online access to publicly accessible data in registers within the meaning of article 3, no.18 that are kept in electronically readable format. Online access to personal administrative data may not be given to the Federal Statistics body without special legal authority or an order pursuant to article 4 (4) hereabove.

(3) Personal data may not be transmitted unless ordered pursuant to article 4 and for the purposes allowed in article 25a hereunder.

(4) In the event public registers are created or altered and contain, or will contain, electronically readable data that may be relevant to a statistical survey or to the completion of the register pursuant to article 25a hereunder, the requirements of Statistik Österreich shall be taken into account.

(5) Upon request by Statistik Österreich, administrative data keepers shall provide information about the existence of administrative data which may be relevant to a statistical survey or to the completion of the register pursuant to article 25a hereunder, provided such data is stored in an electronically readable file, and on the organisation and structure of the data.

(6) Statutory interest groups and the Austrian National Bank are under no obligation to transmit administrative or statistical data if this might harm their proper confidentiality concerns.



### **Co-operation of local authorities in statistical surveys**

**Article 11.** (1) Local authorities are required to co-operate in statistical surveys conducted pursuant to article 6 (1) nos.4 or 5 by Statistik Österreich, if this is provided in an order issued pursuant to article 4 hereabove. Co-operation may comprise canvassing respondents, checking their statements, or summarizing and forwarding those statements. Other duties, in particular the evaluation of statistical surveys, may not be given to local authorities.

(2) With respect to their obligation to co-operate within the meaning of (1) hereabove, local authorities may contract suitable persons to carry out canvassing, counting and controlling duties. Sub-contracting is subject to compliance with statistical confidentiality and data protection requirements. Data coming to the attention of the sub-contractor during the above duties may not be disclosed to third parties or used for his own purposes.

(3) Local authorities shall transmit all survey material directly to Statistik Österreich. Should the co-operation of the district authorities (article 12) be provided by the order pursuant to article 4 hereabove, the local authorities, with the exception of those with their own independent bylaws (article 116 *B-VG*<sup>13</sup>), shall forward the survey material to the district authorities.

(4) Statistik Österreich shall compensate the local authorities for the costs the latter may incur as a result of their co-operation in statistical surveys. Compensation shall be set by regulation as a fixed amount based on the amount of data to be collated and the amount of work required to complete the survey. Responsibility for the issue of the above regulation shall be determined pursuant to Article 8 hereabove and is subject to approval by the Federal Finance Minister. Regulations issued pursuant to article 4 (3) or (4) shall state the aforesaid fixed amount.

(5) Local authorities shall claim compensation pursuant to (4) hereabove within their own spheres of responsibility.

### **Co-operation of district authorities in statistical surveys**

**Article 12.** District authorities shall check that statistical surveys conducted by local authorities pursuant to article 11 hereabove are complete and shall produce district overviews, if required by an order issued pursuant to article 4 hereabove. Once the survey material sent for checking by the local authorities pursuant to article 11 (3) hereabove has been checked, it shall be sent to Statistik Österreich together with the district overview. At the same time, the district authorities shall provide a copy of the district overview to the provincial governor.

### **Bills and draft regulations**

**Article 13.** Bills and draft regulations prepared by federal ministers that might effect Federal Statistics work shall be submitted to Statistik Österreich for a technical opinion that shall be given free of charge.

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<sup>13</sup> Federal Constitutional Act

### **Section Three Duties of Federal Statistics bodies**

#### **General principles governing the compilation of statistics, and the preparation of survey documents**

**Article 14.** (1) When performing their duties, the Federal Statistics bodies shall apply the principles of objectivity, reliability, relevance, cost-efficiency and transparency and shall seek to ensure that all statistics are as consistent as possible.

(2) The collection of documents for surveys within the meaning of article 6 (1) no.5 hereabove shall aim to minimise disturbance and shall take account of the peculiarities of the respondents (e.g. industry, size of business).

#### **Anonymisation of personal data**

**Article 15.** (1) If personal data has been collated, the identity details of the data subject shall be deleted immediately and, in the case of data concerning natural persons, shall be replaced by the Official Statistics area-specific personal code (bPK-AS) as soon as it is no longer required for the reasons specified in article 5 (2) hereabove or for any other statistical survey ordered by regulation. Statistik Österreich may not keep any records from which it is possible to match the person to the bPK-AS. In the case of data concerning enterprises, the identity details shall be replaced by the enterprise code, which shall be formed from non-reversible derivations from the register of enterprises code (article 25 (1) no.7 hereunder). This data may only be used for the purposes allowed in article 26 hereunder.

(2) If it is necessary to retain personal references for reasons mentioned under article 5, (2) nos.5, 6 or 7 hereabove, the identity of the data subjects shall be encoded as follows:

1. article 5 (2) no.5 - immediately after the data has been included in flow statistics;
2. article 5 (2) no.6 - immediately, if this is the only reason for such retention;
3. article 5 (2) no.7 - immediately the data has been included in the statistics;
4. article 5 (2) no.8 - immediately after the data has been included in the computations of the national accounts.

(3) The data encoded pursuant to (2) hereabove shall be stored separately from the key to ensure the right to secrecy of the data subjects concerned is protected. Personal references in such data may not be identified unless this is necessary to ensure the continuation of flow statistics or to perform specific controls pursuant to article 5 (2) no.6, or for a new survey pursuant to article 5 (2) no.7 or for revisions of the computations of the national accounts pursuant to article 5 (2) no.8.

(4) Encoding pursuant to (2) no.1 hereabove may be omitted if the retention of the personal reference is allowed under the Federal Act or legal act issued pursuant to article 4 (1) no.1 ordering the preparation of the flow statistics.

(5) The personal data contained in the registers pursuant to articles 25 and 25a hereunder shall be deleted immediately it is no longer required for the purposes specified in these regulations, at the latest however 30 years after the discontinuation of the enterprise characteristic pursuant to article 3 no.20 hereabove.

#### **Admissibility of surveys and use of data**

**Article 16.** (1) Notwithstanding (2) of this article and article 25a (3) hereunder, Federal Statistics bodies may not collate data unless so required by orders issued pursuant to article 4 hereabove.

(2) In the absence of any survey order within the meaning of article 4 hereabove, surveys may only be performed by canvassing pursuant to article 6 (1) no.5 and subject to the prior consent of the data subjects involved. When asked to give such permission, data subject shall also be informed about the use of their data and of their right to refuse permission.

(3) Unless otherwise stated in a legal act within the meaning of article 4 (1) no.1 hereabove or a Federal Act, personal data may be used only for the purposes stated in article 5 (2) and article 25a (3) unless the data subject has explicitly approved any different use.

### **Confidentiality of statistics**

**Article 17.** (1) Personal data may be used only as stated in article 16 (3) hereabove. In particular, it may not be analysed in such a way that characteristics are presented in personalised form.

(2) Federal Statistics bodies may not transmit personal data to third parties unless so required by legal acts issued pursuant to article 4 (1) no.1 hereabove or by federal law or unless the data subject has expressly and unequivocally agreed to such transmission.

(3) The persons entrusted with Federal Statistics duties shall ensure all personal data they might use when carrying out their duties and all facts coming to their attention during the course of their activities shall be treated in strictest confidence. Concerning the fulfilment of their duties, such persons are deemed civil servants within the meaning of article 74 of the *Strafgesetzbuch (StGB)*<sup>14</sup>, *BGBI*<sup>15</sup> no. 60/1974.

(4) The confidentiality of statistics is an official secret within the meaning of article 310 *StGB*<sup>16</sup>.

### **Transmission of data from statistical surveys to international institutions**

**Article 18.** Where international agreements provide that the results of statistical surveys shall be provided to international institutions, such transmission shall be effected by Statistik Österreich unless a Federal Act or legal act within the meaning of article 4(1) no.1 or any international agreement provides otherwise.

### **Publication of statistics**

**Article 19.** (1) Federal Statistics bodies are obliged to make statistics that are ordered by regulation (article 4 (1) hereabove) and all other statistics and their concepts, definitions and explanations accessible to the public without delay and in an appropriate form, unless a Federal Act or legal act within the meaning of article 4 (1) no.1 hereabove or an international agreement provides otherwise.

(2) Statistics shall be published in a manner that prevents any connection being made with statements concerning specific or identifiable data subjects unless the data subject concerned has no interest warranting protection in his/her data remaining confidential. In the

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<sup>14</sup> Criminal Code

<sup>15</sup> Federal Law Gazette

<sup>16</sup> Criminal Code

event such connections cannot be ruled out, publication is subject to the explicit prior written consent of the data subject involved.

(3) With regard to publication, account shall be taken of any specific indications that might be given by a data subject as to the possibility of connections being made with statements in which the data subject has an interest warranting protection.

(4) Federal Statistics bodies shall notify their activity reports and federal statistics work programmes to Statistik Österreich directly.

## **Section Four** **Internal administrative statistics, use of classifications**

### **Internal administrative statistics**

**Article 20.** (1) Federal ministries may compile statistics within their own fields pursuant to article 2 (1) no.2 of the *Bundesministeriengesetz 1986*<sup>17</sup>, in so far as the survey material falls within the scope of the ministry's usual business and the results are intended for the use of the federal ministries concerned.

(2) The results of statistics compiled pursuant to (1) hereabove shall be transmitted to Statistik Österreich unless major national interests dictate otherwise.

### **Attribution and use of classifications**

**Article 21.** (1) In the event that, as a result of a legal act within the meaning of article 4 (1) no.1 hereabove or a Federal Act, an institution is required to organise particular statistical units using statistical classifications, Statistik Österreich statistical classifications (e.g. based on the *Systematik der Wirtschaftstätigkeiten ÖNACE* (classification of ÖNACE economic activities) pursuant to article 4 (5)) shall be used.

(2) The classificatory attribution of statistical units (enterprises, holdings, local units, other statistical units pursuant to article 25a hereunder) shall be made by Statistik Österreich either *ex officio* or at the request of the institution pursuant to (1) hereabove, or by the legal representative of the statistical unit concerned, and shall be amended in the event of change in the circumstances material to attribution or in the regulations concerning the classificatory attribution. If the technical prerequisites are in place, Statistik Österreich may use the Corporate Service Portal to collect information from the enterprises concerning their main and secondary activities, deal with queries and advise of the classificatory attribution (dialogue procedure).

(3) Attributions or amendments effected pursuant to (2) hereabove shall be communicated to the institution or legal representative in writing and free of charge. Communication may be electronic if data transmission is secure and data is protected against unauthorised access by third parties. Communication does not constitute official notification.

(4) If the legal representative concerned does not agree with the Statistik Österreich attribution, within four weeks of dispatch of the communication a written application may be filed with said Federal Institution for a declaratory decision. The decision shall be issued by the federal minister who, pursuant to the *Bundesministeriengesetz 1986*<sup>18</sup>, is responsible for the main activity of the institution in question.

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<sup>17</sup> 1986 Federal Ministries Act

<sup>18</sup> 1986 Federal Ministries Act

5) Applications made pursuant to (4) hereabove shall give:

1. the reasons why the Statistik Österreich attribution is incorrect;
2. information concerning the circumstances material to the attribution of the statistical unit concerned.

(6) Within four weeks of the filing of the application pursuant to (4) hereabove and possible further relevant inquiries, Statistik Österreich may change the attribution to that requested. Alternatively it must submit the application to the responsible federal minister immediately and at latest by the end of the aforesaid four weeks.

(7) The classificatory attribution made by Statistik Österreich shall become effective:

1. on expiry of the time limit pursuant to (4) hereabove if no application has been filed for a declaratory decision;
2. on the withdrawal of an application made within the time limit and pursuant to (4) hereabove;
3. on the advice of Statistik Österreich concerning the change of the classificatory attribution pursuant to (6) hereabove to the legal representative of the statistical unit concerned;
4. on receipt by Statistik Österreich of the written agreement of the legal representative of the statistical unit concerned with regard to the classificatory attribution.

(8) Statistik Österreich shall keep a register of classificatory attributions for the implementation of statistical surveys and for purposes pursuant to nos.1 and 2 hereabove. Upon request, it shall provide the ÖNACE attribution regarding the main activities of the enterprises free of charge:

1. to anyone citing the company name and address and the Commercial Register number, the Register of Associations number or the VAT number, if evidence of a justified interest in the information is furnished;
2. to national and regional authorities, the social insurance institutions and statutory interest groups with a company name and address, insofar as this is required for the performance of statutorily conferred duties.

Transmission of the data pursuant to no.2 may also be effected by granting online access to the register on reimbursement of the given implementation costs incurred.

(9) The legal representatives concerned shall, pursuant to (2) hereabove, co-operate in the determination of the relevant facts and in providing the information required.

## **Chapter Two Statistik Österreich, Federal institution under public law**

### **Section One Establishment**

**Article 22.** (1) Upon entry into force of this Federal Act, the Austrian Central Statistics Office shall be established as a Federal Institution under public law with the name "Statistik Österreich".

(2) Statistik Österreich shall be responsible for the supply of scientific services that are in the public interest. It shall be a non-profit organisation.

(3) The registered office of Statistik Österreich, which shall have a legal personality, shall be in Vienna. It shall be entitled to bear the federal coat of arms.

(4) Statistik Österreich may establish its own rights and obligations for which the Federal Government shall have no liability.

(5) The first Director General - Finance shall register the Federal Institution immediately, with the Vienna commercial court for entry into the Commercial Register backdated to the effective date of this Act. Article 3 of the *Firmenbuchgesetz*<sup>19</sup>, BGBl.<sup>20</sup> no. 10/1991 applies and the following entries are obligatory:

1. Name of the Federal Institution and institutional purpose;
2. Names and dates of birth of the Director General - Finance and of the Director General - Statistics of the Federal Institution, the date(s) on which their powers of representation commenced and the natures of those powers;
3. Names and dates of birth of the Chair, Deputy Chair and other members of the Economic Council;
4. the filing date for the annual financial statements and the balance sheet date.

(6) The financial year of the Federal Institution is the calendar year.

## **Section Two Duties, obligations**

### **Duties**

**Article 23.** (1) On behalf of the Federal Government, Statistik Österreich shall:

1. compile statistics and in particular carry out statistical surveys ordered by regulation pursuant to article 4 hereabove;
2. ensure publication pursuant to articles 19 and 30
3. fulfil the Federal Statistics duties and responsibilities enjoined on the national statistics institutions of the contracting parties to international treaties;
4. transmit the results of statistical surveys pursuant to article 18;
5. make classificatory attributions pursuant to article 21;
6. provide advice pursuant to article 13;
7. co-operate with the statistics bodies and institutions of the European Union and of international organisations on behalf of the competent federal minister;
8. meet material requirements and carry out administration pursuant to article 65 (1) hereunder;
9. perform other tasks assigned by federal law.

(2) Other statistics required under international agreements may be compiled on behalf of the Federal Government, the provinces and local authorities, other public law legal personalities and for non-profit undertakings established by federal law to perform tasks that are in the general interest for bodies of the European Union and of international organisations.

(3) Statistik Österreich may also do all that is necessary to attain its institutional purpose, such as setting up subsidiaries and acquiring holdings.

(4) Statistik Österreich may not enter into agreements pursuant to (2) hereabove unless this does not interfere with the timely and orderly performance of its tasks pursuant to (1) hereabove.

(5) The statistical responsibilities imposed under other Federal Acts and legal acts within the meaning of article 4 (1) no.1 are unaffected.

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<sup>19</sup> Commercial Register Act

<sup>20</sup> Federal Law Gazette

(6) The activities of Statistik Österreich under this Federal Act are not subject to the *Gewerbeordnung 1994*<sup>21</sup>, *BGBl.*<sup>22</sup> no. 194.

### Special principles applying to the performance of duties

**Article 24.** When performing its duties pursuant to article 23 (1) and (2) hereabove Statistik Österreich shall apply the following principles in particular, in addition to those set out in article 14 (1) hereabove:

1. the compiling of statistics shall be objective and impartial;
2. statistical methods and procedures shall be applied using internationally accepted statistical principles and standards and shall be published;
3. statistics shall be subject to permanent control with the aim of improving quality;
4. statistics shall be kept as up-to-date as possible;
5. the burden on data subjects and respondents shall be minimised and they shall be provided with sufficient information;
6. there shall be compliance with the principles of publication set out in article 30;
7. personal data shall be strictly confidential.

### Register of enterprises

**Article 25.** (1) Statistik Österreich shall keep a register of enterprises with the following data as a regularly supplemented, temporally structured data collection for the purposes of administration and of e-government of the federation and shall provide said register to the institutions of the federal provinces, municipalities, social insurance institutions and statutory interest groups for the performance of the statutorily conferred duties pursuant to (6) hereunder:

1. identification characteristics of the enterprises (e.g. designation, name, legal form, commencement and conclusion of business activity and Commercial Register number or Central Register of Associations number, Register of Trade number, serial number in the Supplementary Register for other Data Subjects);
2. address characteristics;
3. ÖNACE code for main activities, insofar as this has been ascertained in accordance with article 21 hereabove;
4. in the case of legal entities, partnerships, associations and societies, the persons entitled to represent same according to the constitution with their unique identity characteristics pursuant to article 2 no.2 *E-Government-Gesetz*<sup>23</sup>, *BGBl.*<sup>24</sup> I no. 7/2004;
5. data source characteristics;
6. codes in the official processes for the unambiguous identification of units of the register of enterprises (e.g. tax number, VAT number, Data Processing Register number);
7. register of enterprises code that shall be assigned by Statistik Österreich at the time the enterprise is first entered.

(2) For the purposes of inclusion in the register, the following data and amendments thereto (corrections, deletions) shall be transmitted to Statistik Österreich free of charge by electronic means via an interface defined by Statistik Österreich or by means of an online application provided by Statistik Österreich:

1. data pursuant to (1) nos.1, 2 and, if necessary, 4 hereabove
  - a. concerning those enterprises that in conjunction with the performance of business activity must, owing to an obligation under national law, be entered in publicly accessible registers (e.g. Commercial Register, Register of Associations), in publicly accessible lists

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<sup>21</sup> 1994 Trade, Commerce and Industry Regulation Act

<sup>22</sup> Federal Law Gazette

<sup>23</sup> E-Government Act

<sup>24</sup> Federal Law Gazette

- (e.g. doctors' list of the medical associations) or in the Register of Trade, by the authorities responsible for entry of the data at the same time as the entry is made;
- b. concerning those enterprises not falling under a., by the Federal Government taxation authorities immediately after knowledge thereof;
2. data pursuant to (1) no.6 by the authorities responsible for the implementation of the given process immediately after knowledge thereof. The Federal Interior Minister shall transmit the data pursuant to (1) nos.1, 2 and 4 hereabove of all associations listed in the Register of Associations to Statistik Österreich for the purposes of determination of the enterprise characteristic pursuant to article 3 no.20 and inclusion of the data of those associations bearing this characteristic in the register of enterprises. The data concerning those associations not bearing the enterprise characteristic shall be deleted by Statistik Österreich immediately after its determination, insofar as it is not to be included pursuant to article 25a in the register of statistical units.

(3) Insofar as the enterprise is already entered in the register of enterprises, transmission of the data pursuant to (2) hereabove shall be linked to the register of enterprises code ((1)); in the case of legal succession, to the code of the enterprise the rights and obligations of which have been subrogated; in the case of merger, demerger and change of corporate form with or without overall legal succession, to the codes of the enterprises concerned. In the case of enterprises that are entered in the Commercial Register, the transmission of the data must be effected with the Commercial Register code instead of with the register of enterprises code.

(4) Statistik Österreich shall check the transmitted address characteristics prior to inclusion in the register for coherence with the addresses in the Buildings and Dwellings Register (article 1 *GWR-Gesetz*<sup>25</sup>) and, if necessary, shall request the transmitting authority for correction.

(5) Statistik Österreich shall include the data transmitted pursuant to (2) hereabove in the register of enterprises without further checking. If, in performance of its duties, Statistik Österreich becomes aware that this data may no longer correspond to the actual situation, it shall inform the transmitting authority thereof for the purposes of verification and correction if applicable.

(6) Statistik Österreich shall grant the institutions of the Federal Government, the federal provinces, municipalities, social insurance institutions and statutory interest groups and in particular the institution of the Federal Government that is responsible for the operation of the Corporate Service Portal for the purposes of e-government online access to the data of the register of enterprises pursuant to (1) nos.1 to 5 and 7 hereabove at their request, insofar as this is required for the performance of statutorily conferred duties and serves economic administrative purposes. Access to the data pursuant to (1) no.6 hereabove may only be granted to the authorities responsible for the implementation of the processes concerned and to the institution responsible for the operation of the Corporate Service Portal. Online access shall be free of charge with the exception of the implementation costs incurred by Statistik Österreich for establishment of this access.

### **Register of statistical units**

**Article 25a.** (1) For statistical purposes, Statistik Österreich shall keep, including personal data, a register of statistical units containing the data of the register of enterprises pursuant to article 25 (1) hereabove and the following data of the enterprises, their holdings and local units and of those legal entities, institutions, consortia and research institutes that do

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<sup>25</sup> Buildings and Dwellings Register Act



not belong to the register of enterprises, the characteristics of which must however be collected for statistics (other statistical units):

1. identification characteristics of the holdings and local units and affiliation to the enterprise and the other statistical units;
2. address characteristics of the holdings, local units and the other statistical units;
3. classification characteristics (e.g. ÖNACE code);
4. workforce data of the enterprises and the other statistical units;
5. workforce data of the holdings and local units;
6. turnover and income sources of the enterprises and the other statistical units;
7. unit type (e.g. enterprise, holding, local unit);
8. other classification characteristics for sampling;
9. reference characteristics concerning the data sources used for statistical purposes;
10. transmission and information characteristics.

(2) For the purposes of inclusion in the register, the following data and amendments thereto (corrections, deletions) shall be transmitted to Statistik Österreich by electronic means via an interface defined by Statistik Österreich or by means of an online application provided by Statistik Österreich without delay and free of charge at the request of Statistik Österreich:

1. data pursuant to (1) no.4 hereabove by the Main Association of Social Insurance Institutions;
2. data pursuant to (1) no.6 hereabove by the Federal Government taxation authorities.

(3) For the compilation, ongoing supplementation and correction of register data, Statistik Österreich may use personal data from public registers, statistical surveys and the administrative data pursuant to article 10 (1) hereabove to be transmitted for this purpose. Persons required to provide information on a data subject included in these registers shall provide Statistik Österreich with information as to the correctness and completeness of the details given in said registers if Statistik Österreich has requested such information because of reasonable doubt in this regard and the details cannot be corrected or completed in good time in any other way.

(4) Statistik Österreich may use the register data for statistical purposes if required.

### **Other registers**

**Article 26.** (1) Statistik Österreich may, after deletion of the identity details, use the data, which may be organised into categories if necessary, in registers linked to the bPK-AS or the enterprise code pursuant to article 15 (1) for the preparation of statistics, evaluations, analyses, forecasts and statistical models in conjunction with duties pursuant to article 23 hereabove and article 29 hereunder. The data must be deleted immediately once it is no longer required for these purposes.

(2) The hereabove is without prejudice to the provisions concerning registers contained in legal acts within the meaning of article 4 (1) no.1 or in Federal Acts.

### **Outsourcing**

**Article 27.** (1) Statistik Österreich may contract appropriate persons or institutions to compile statistics and in particular to conduct statistical surveys if this is financially and economically advisable and useful and if this does not affect the interests warranting protection of either the data subjects or the public.

(2) Sub-contracting pursuant to (1) hereabove is subject to compliance by the sub-contractor with the duty to ensure that statistics remain confidential and the Data Protection Act. The subcontractor may not transmit the personal data collated or provided by Statistik Österreich in the course of the contract to third parties or use it for his personal purposes,

unless such personal use is allowed by federal law. The use of non-personal data is subject to agreement by Statistik Österreich.

(3) The hereabove is without prejudice to the provisions of the *Datenschutzgesetz*<sup>26</sup> concerning the employment of service providers.

### Electronic supply of information

**Article 28.** (1) Statistik Österreich shall ensure that the transmission of information pursuant to article 9 (1) and article 25a (3) hereabove data may be made electronically available, so long as this is useful, technically possible, data transmission is secure and data is protected against unauthorised access. Respondents shall be informed of this option and shall be given details of authorised technical means and electronic formats.

(2) Where information may be provided using authorised electronic means, this shall replace information provided in hard copy.

(3) At their request, respondents shall be sent statistical survey documents electronically and free of charge so long as this is useful and technically justifiable.

### Special information and advisory activities

**Article 29.** (1) Unless otherwise provided by a legal act pursuant to article 4 (1) no.1 hereabove, by an agreement pursuant to article 15a *B-VG*<sup>27</sup> or a by Federal Act, Statistik Österreich shall agree suitable remuneration for the following information and advisory activities:

1. for the supply of information for Federal Statistics in addition to the information required under the *Auskunftspflichtgesetz*<sup>28</sup>, *BGBI.*<sup>29</sup> no. 287/1987, and
2. for technical advice in matters of Federal Statistics, for special statistical assessments and for the supply of statistical data.

(2) Statistik Österreich shall seek to ensure published statistics are properly used and interpreted.

(3) Statistik Österreich shall:

1. inform the federal minister responsible and the Statistics Council immediately when notified of draft orders issued by European Union bodies to compile Community statistics and to conduct statistical surveys, and shall keep the federal minister concerned updated on the progress of such business;
2. ensure the Statistics Council
  - a. has the information requested immediately, and
  - b. is sent the activity reports and work programmes of the Federal Statistics bodies pursuant to article 19 (4) hereabove.

### Special publication obligations

**Article 30.** (1) In addition to the publication according to article 19 (1) hereabove, Statistik Österreich shall also grant public access to the main results of the statistics on the internet. These publications shall be free of charge.

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<sup>26</sup> Data Protection Act

<sup>27</sup> Federal Constitutional Act

<sup>28</sup> Obligation to Provide Information Federal Act

<sup>29</sup> Federal Law Gazette

(1a) (1) shall also apply – subject to article 19 (1) hereabove – to statistics pursuant to article 23 (2) hereabove, provided the client does not publish them himself within two months of completion of the statistics.

(2) Additionally, Statistik Österreich shall provide public access to the detailed results of the statistics via an adequate electronic database in return for an appropriate fee to cover its costs.

(3) Statistik Österreich shall immediately inform the competent federal minister on the results of the statistical surveys. Simultaneously, these results shall be made publicly available in an appropriate manner.

(4) Statistik Österreich shall document the transmission of results of statistical surveys to international institutions pursuant to article 18. The results shall be made available to the public as soon as possible.

(5) Publications pursuant to (1) to (4) hereabove are subject to article 19 (2) and (3).

### **Use of statistical data for scientific purposes**

**Article 31.** (1) Statistik Österreich may provide access to non-personal data that has not been published pursuant to article 30 (2) hereabove to suitably qualified persons and scientific institutions for scientific purposes following approval of the use to which it will be put and payment of an appropriate fee to cover costs.

(2) In granting access pursuant to (1) hereabove, Statistik Österreich shall implement data security measures in order to prevent the identification of personal data using means that may be reasonably applied, and to prevent the storage of personal statistical data on external media.

(3) The use of personal statistical data for scientific purposes is prohibited.

### **Remuneration of services**

**Article 32.** (1) Unless otherwise provided herein, Statistik Österreich shall provide services for a fee or against reimbursement of costs.

(2) Fees and reimbursements of costs shall be calculated using transparent internal costings satisfying recognised commercial principles that have themselves been developed in application of the principles of economy, cost effectiveness and usefulness and the coverage of all costs incurred.

When calculating costs to be reimbursed pursuant to (4) no.1 hereabove, all cost-cutting measures that can be applied to the statistics concerned pursuant to (3) no.1 by reducing survey intervals, the number of characteristics of analytical interest or by changing the form of survey (sample-based instead of full survey, the use of administrative or registry data instead of canvassing) should be so applied.

(3) Statistik Österreich shall be reimbursed the costs it incurs:

1. when performing duties pursuant to article 23 (1) nos.2 to 8 or carrying out statistical surveys and compiling statistics as listed in Schedule II with the scope and periodicity required for the preparation of the national accounts as at 31 December 2002 or by legal acts pursuant to article 4 (1) nos. 1 and 2 hereabove or by regulations pursuant to article 4 (1) nos. 1 and 2 hereabove. Such reimbursement shall be in the fixed amount stated in (5) hereunder, and
2. for all other duties pursuant to article 23 (1) and (2) hereabove.

(4) Reimbursements pursuant to (3) hereabove are payable as follows:

1. statistics and surveys: by the federal minister responsible, based on the subject of the statistics or survey concerned pursuant to article 2, (1) no.2 of the *Bundesministeriengesetz 1986*<sup>30</sup>, so long as these go beyond the scope of (3), no.1 hereabove
2. duties pursuant to article 23, (1) no.9 hereabove: by the federal minister responsible for such duties;
3. duties pursuant to (3) no.1 hereabove: by the Federal Chancellor.

(5) The fixed amount shall be EUR 50.391 million per year from 1 January 2000.

(6) The Federal Chancellor shall pay the following fixed amount annually to Statistik Österreich to compensate the additional cost of setting up and maintaining the register of enterprises pursuant to article 25 hereabove:

1. EUR 1 380 000 in the year 2010 and EUR 690 000 in the years 2011 to 2013;
2. EUR 350 000 in the year 2014, and in the following years plus an annual value adjustment of 3 %.

(7) and (8) *repealed*

(9) At their request, federal ministers required to reimburse costs pursuant to (4) nos.1 and 2 hereabove may vision the reimbursement calculations. Reimbursements shall be paid quarterly in advance, subject to requirement.

(10) In the case of services provided pursuant to article 23 (2) and article 29 hereabove, the remuneration payable to Statistik Österreich shall in any case cover the additional costs it incurs during the performance of the agreement concerned.

(11) Duties performed pursuant to article 23 (2) may not be financed using moneys obtained through the performance of duties pursuant article 23 (1).

(12) Reimbursements payable to local authorities pursuant to article 11 (4) shall be paid separately to Statistik Österreich by the Federal Government upon consideration of receipts obtained for these purposes.

(13) Unused financial resources in any calendar year pursuant to (6) hereabove may be carried forward to the following calendar year.

### **Section Three** **Asset transfer, leasing, liability**

#### **Asset transfer**

**Article 33.** (1) Title to moveable assets previously owned by the Federal Government but managed by the Austrian Central Statistics Office acting in its capacity as a federal government office, where such assets are required for the performance of duties and have previously been primarily used by the Austrian Central Statistics Office, shall be assigned to Statistik Österreich together with all pertaining rights and legal relationships, assets and liabilities by way of universal succession when this Federal Act comes into effect. The universal successor shall be registered in the Commercial Register.

(2) The assets assigned pursuant to (1) hereabove shall be determined in the opening accounts, which shall be filed within six months of the assignment of such assets. Assets need

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<sup>30</sup> 1986 Federal Ministries Act

not be determined at production or acquisition cost in the opening accounts. Technical equipment and facilities shall be recognised on the basis of their condition and degree of technical sophistication. The assets shown in the opening accounts shall include all Statistik Österreich assets and liabilities that can clearly be attributed to this field of business and are evident in the assigned creditor/debtor positions. Assets shall also include all asset items, legal relationships and charges not evident in the accounts but belonging to the assigned business. The assets in the opening accounts shall be audited and certified by a court-approved external auditor. The opening accounts shall be filed in the Commercial Register. Article 10 of the *Handelsgesetzbuch*<sup>31</sup>, *dRGBI.*<sup>32</sup> S 219/1897 shall apply.

### **Lease of government buildings**

**Article 34.** The Federal Finance Minister may, in consultation with the Federal Chancellor and the Federal Minister for Economic Affairs, allow the lease of the federal buildings and the space in Federal Government buildings the Austrian Statistical Central Office used up to and including the day before universal succession pursuant to article 33 (1) came into effect to be transferred to Statistik Österreich. The lease shall be subject to the payment of rental and to a lease agreement that shall come into effect at the same time as this Federal Act.

### **Liability of bodies and officers**

**Article 35.** (1) Pursuant to the *Amtshaftungsgesetz*<sup>33</sup>, *BGBI.*<sup>34</sup> no. 20 /1949, the Federal Government shall be liable for any culpable harm caused to whomsoever by Statistik Österreich officers or employees or by any other persons acting on the instructions of Statistik Österreich pursuant to this Act when the aforesaid are performing their official duties within the meaning of article 23(1) hereabove. In such an event, the Federal Government shall notify Statistik Österreich, which shall in turn notify the person it believes has given rise to the claim, of the proceedings that have been brought (article 21 of the *Zivilprozessordnung*<sup>35</sup>, *dRGBI.*<sup>36</sup> no. 113/1895) and these may intervene in the action to assist the Federal Government (article 17 of the *Zivilprozessordnung*<sup>37</sup>). Statistik Österreich and the person who caused the harm shall not be liable to the injured party.

(2) Should the Federal Government be ordered to pay damages to the injured party pursuant to (1) hereabove, it may seek compensation from Statistik Österreich pursuant to article 2 (1), article 3 (1), article 5, article 6 (2) article 9 (1) and article 10 (1) of the *Amtshaftungsgesetz*<sup>38</sup>.

(3) If Statistik Österreich has paid compensation pursuant to (2) hereabove, it may in turn seek compensation pursuant to articles 3, 5 and article 6 (2) of the *Amtshaftungsgesetz*<sup>39</sup> from the person it believes gave rise to the claim. In such proceedings, persons accused of liability are released from their duty of secrecy.

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<sup>31</sup> Commercial Code

<sup>32</sup> Law Gazette of the German Empire

<sup>33</sup> Government Liability Act

<sup>34</sup> Federal Law Gazette

<sup>35</sup> Civil Action Order

<sup>36</sup> Law Gazette of the German Empire

<sup>37</sup> Civil Action Order

<sup>38</sup> Government Liability Act

<sup>39</sup> Government Liability Act

(4) Pursuant to the *Organhaftpflichtgesetz*<sup>40</sup> BGBl. <sup>41</sup> no.181/1967, Statistik Österreich shall be liable to the Federal Government for all direct, culpable harm caused by Statistik Österreich officers or employees or by any other persons acting on the instructions of Statistik Österreich when the aforesaid are performing their official duties within the meaning of article 23(1) hereabove, so long as the *Arbeits- und Sozialgerichtsgesetz*<sup>42</sup> does not apply and the persons believed to be liable have been released from their duty of secrecy.

(5) If Statistik Österreich has compensated to the Federal Government pursuant to (4) hereabove, it may, pursuant to article 1, article 2 (2) and article 3 of the *Organhaftpflichtgesetz*<sup>43</sup> itself seek compensation from the persons concerned. The claim shall lapse six months after the day Statistik Österreich admits the claim of the Federal Government or after a court order to pay has come into effect. In such proceedings, persons involved in compensation claims are released from their duty of secrecy.

## Section Four Organisation

### Bodies

**Article 36.** The bodies of Statistik Österreich shall be:

1. Management (articles 37 to 43);
2. Statistics Council (articles 44 to 47);
3. Economic Council (articles 48 to 52).

### Appointment, dismissal and resignation of management members

**Article 37.** (1) The Statistik Österreich management shall comprise a director responsible for matters of statistics (Director of Statistics) and a director responsible for other Statistik Österreich matters (Financial Director). Both may be styled "director general" to be followed by their particular area of responsibility.

(2) The *Stellenbesetzungsgesetz*<sup>44</sup>, BGBl. <sup>45</sup> I no. 26/1998 applies to the appointments of the Director General - Statistics and of the Director General - Finance. Each will be appointed by the Federal Chancellor for up to five years.

(3) The Director General - Statistics and the Director General - Finance may be dismissed by the Federal Chancellor on serious grounds at any time, notwithstanding any compensation claims that might be made on the grounds of existing contracts.

(4) Notwithstanding any compensation claims that might be made by Statistik Österreich on the grounds of existing contracts, the Director General - Statistics and the Director General - Finance may submit their resignations to the Federal Chancellor. Resignation may take immediate effect if there are serious reasons for this, alternatively resignations shall take effect after 14 days. The chairs of the Economic Council and of the Statistics Council shall be informed of all resignations.

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<sup>40</sup> Law on the Liability of Legal Persons in Private and Public Law for Wrongful Acts or Negligence on the Part of their Officers

<sup>41</sup> Federal Law Gazette

<sup>42</sup> Labour and Social Courts Act

<sup>43</sup> Law on the Liability of Legal Persons in Private and Public Law for Wrongful Acts or Negligence on the Part of their Officers

<sup>44</sup> Staffing Act

<sup>45</sup> Federal Law Gazette

### **Management duties**

**Article 38.** (1) The Director General - Statistics is responsible for the management of the technical and official duties performed by Statistik Österreich. In this capacity he reports to the appropriate federal minister. In all matters of scientific methodology the Director General - Statistics is personally responsible for the performance of his/her own duties.

(2) The Director General - Finance is responsible for the business management of Statistik Österreich and for all other duties for which the Director General - Statistics is not responsible. He/she shall use all due diligence in the performance of such duties and shall comply with business principles.

(3) The Director General - Finance shall ensure that an accounting system and an internal control system is set up to meet Statistik Österreich needs. Duties performed pursuant to article 23 (1) and (2) shall be reported separately in the accounts.

(4) The co-operation of the Director General - Statistics with the Director General - Finance shall be set out in an allocation of duties subject to approval by the Federal Chancellor. The Director General - Finance must agree with the Director General - Statistics on the following matters in particular:

1. the development of and changes to the internal organisation of Statistik Österreich;
2. the implementation of HR measures for Statistik Österreich management and statistics staff;
3. the appointment of senior and statistics officers;
4. the introduction of personnel development and training programmes.

(5) If agreement pursuant to (4) cannot be reached, the Director General - Finance shall have the casting vote. The Statistics and Economic Councils shall be informed of such decisions immediately. Should the decision be passed by use of the Director General - Finance's casting vote, the Director General - Statistics may within three days appeal to the Economic Council. This shall issue a decision within three weeks. The Director General - Finance shall postpone implementation of his/her decision until the decision of the Economic Council has been announced or, if it fails to do so within the time stated, when this period expires.

### **Work programme, budget, financial forecasts, initial management concept**

**Article 39.** (1) By the end of June each year the Statistik Österreich management shall submit to the Statistics Council the annual work programme and budget for the following calendar year and the four-year work programme and budget for the four calendar years thereafter.

(2) The annual and four-year work programmes shall be prepared in compliance with article 24 and with (3) hereabove. They shall include the duties listed in article 23 (1) and the methodologies and procedures provided for the duties to be performed in compliance with article 23 (1) nos.1, 3 und 5.

(3) The annual and four-year budgets shall be prepared in compliance with the principles of economy, cost effectiveness and usefulness and shall exploit all possible rationalisation opportunities. In particular, they shall contain the organisation on which Statistik Österreich is based and also allocation of personnel and resources, investment project and financing plans.

(4) The Statistics Council shall give its report on the work programmes and budgets submitted pursuant to (1) to Statistik Österreich's management within four weeks.

(5) Following submission of the above to the Statistics Council, the management of Statistik Österreich shall, by the end of November, present the work programmes prepared pursuant to (2) hereabove and the budgets prepared pursuant to (3) hereabove to the Economic Council for its approval. The management shall state in this connection any serious reasons that have prevented it taking account of recommendations by the Statistics Council.

(6) The annual forecast prepared pursuant to article 40 (1) hereabove shall relate to the approved work and budget programmes.

(7) For the first financial year, the Federal Chancellor in consultation with the Federal Finance Minister shall prepare a provisional annual work programme and annual budget, which shall apply until approval of the work programmes and budgets pursuant to (8) hereunder.

(8) Within six months of their appointment and subject to due application of (1) to (5) hereabove, the first Statistik Österreich management shall prepare the first management concept, which shall contain the following in particular:

1. first and subsequent business years: the appropriate annual work programmes and annual budgets;
2. the four-year programme and budget.

### **Management reporting obligations**

**Article 40.** (1) At least once a year Statistik Österreich management shall report to the Economic Council on essential questions concerning the activities of the Federal Institution and on future changes to its asset, financial and profits position in the form of a forecast (annual report). It shall also report regularly, and at least quarterly, to the Economic Council on business and the current position of Statistik Österreich as compared with the forecast, while also looking to the future (quarterly report). The Chair of the Economic Council must be informed immediately of all important developments and all material changes in liquidity must be reported immediately to the Economic Council (special report).

(2) The annual report, the quarterly reports, the multi-year work and budget programme shall be prepared in writing and, if requested by the Economic Council, presented orally; copies shall be sent to all Economic Council members. Special reports may be presented either in writing or orally.

### **Planning and reporting system**

**Article 41.** The Director General - Finance of Statistik Österreich is responsible for implementing a planning and reporting system capable of ensuring that management is able to meet its reporting obligations, as laid down in the regulations and guidelines of the Federal Finance Minister, concerning the implementation of investment and financial controlling systems.

### **Representation of Statistik Österreich**

**Article 42.** (1) In the performance of its official and statistical duties Statistik Österreich shall be represented by the Director General - Statistics. After having consulted the Director General - Finance, he/she may authorize suitable Statistik Österreich employees to deal with particular statistical and official duties independently.

(2) In all other matters, Statistik Österreich shall be represented judicially and extra-judicially by the Director General - Finance. Statistik Österreich shall be bound by all legal



agreements executed by the Director General - Finance in its name, regardless of whether the agreement has been executed expressly in the name of Statistik Österreich or whether under the circumstances the parties have desired that it should be executed on behalf of Statistik Österreich. Subject to the approval of the Economic Council, the Director General - Finance may authorize appropriate Statistik Österreich employees to deal with particular Statistik Österreich matters pursuant to article 54 of the *Handelsgesetzbuch*.

(3) The Director General - Finance shall be represented by the Director General - Statistics; the Director General - Statistics shall be represented by a suitable Statistik Österreich employee, who shall be appointed to this position by the Director General - Statistics in agreement with the Director General - Finance.

(4) The Director General - Finance and the Director General - Statistics have a duty to Statistik Österreich to comply with all limitations set out in this Act or in any binding order issued by the Economic Council concerning the extent of their authority to represent Statistik Österreich. The Director General - Finance shall execute agreements pursuant to article 23 (2) by agreement with the Director General - Statistics. Should no such agreement be reached, the opinion of the Director General - Finance shall prevail and the Economic Council shall be informed.

(5) The names of the Director General - Finance and the Director General - Statistics of Statistik Österreich, together with the termination or change of their representational authorities shall be notified to the Commercial Register without delay. A certified version of the document of appointment or change shall be attached to said notification. At the same time, the new Director General - Finance or Statistics shall make his signature before a court or shall submit his certified signature. Defects in the appointment of a registered or announced Director General - Finance or Statistics may not be asserted against a third party unless that third party was aware of the aforesaid defects.

(6) Limitation of representational powers pursuant to (4) shall have no legal effect on third parties. This applies in particular if representational authority is restricted to particular commercial operations or types of commercial operation, to particular circumstances, to a particular period of time, or to particular locations, or if the approval of the Economic Council is required for individual commercial operations.

(7) Declarations of intent shall be signed on behalf of Statistik Österreich by the signatories appending their signatures to the name of the Federal Institution.

(8) Declarations, writs and other notifications shall be served on Statistik Österreich with legal effect if they are served on any of its authorised signatories or authorised joint signatories.

### **Annual financial statements, management report**

**Article 43.** The Statistik Österreich annual financial statements and management report shall be prepared in compliance with articles 189 to 243 of the *Handelsgesetzbuch* and shall be audited by an external auditor in compliance with articles 268 to 276 *leg. cit.* Annual financial statements shall be filed with the Commercial Register.

### **Establishment of the Statistics Council**

**Article 44.** (1) Statistik Österreich shall have a Statistics Council.

(2) The Statistics Council shall comprise 16 members appointed as follows:  
1. four members by the Federal Chancellor,

2. the Federal Minister of Finance, the Federal Minister for Economics and Labour, the Federal Minister for Health, Family and Youth, the Federal Minister of Social Affairs and Consumer Protection and the Federal Minister for Agriculture, Forestry, Environment and Water Management shall each appoint one member,
3. the Austrian National Bank, the Austrian Federal Economic Chamber, the Presidential Conference of Austrian Chambers of Agriculture, the Federal Chamber of Labour, the Austrian Association of Municipalities, the Austrian Association of Towns, and the Conference of Provincial Governors shall each appoint one member.

(3) Members shall hold the professional qualifications needed to perform Statistics Council duties. Members of the Statistics Council shall be appointed (delegated) for a term of five years. Said term shall commence at the first meeting of the newly appointed Statistics Council. Should any member leave the Statistics Council before the end of his/her term of office, a new member shall be appointed to fill his/her position. Upon expiry of its term of office, the Statistics Council shall remain in post until the first meeting of the new Statistics Council.

(4) Statistical Council members may be dismissed or allowed to resign before the end of their term of office by the body that appointed or delegated them if:

1. the member concerned so requests;
2. the member concerned has been negligent in the performance of his/her duties;
3. the member concerned is unable to perform his/her duties with all due diligence as a result of serious physical or mental illness.

(5) The Chair of the Statistics Council and his/her deputy shall be appointed from among the members of the Statistics Council described in (2) no.1 hereabove by the Federal Chancellor.

(6) Statistics Council members may not at the same time be members of the management or staff of Statistik Österreich or of its Economic Council.

(7) The Statistics Council shall develop its own rules of procedure, which shall be subject to approval by the Federal Chancellor. The rules of procedure shall allow minority votes.

(8) Statistics Council members shall be entitled to remuneration for their time and work; such remuneration shall be set by the Federal Chancellor.

### **Meetings of the Statistics Council**

**Article 45.** (1) The Statistics Council shall meet as and when required and at least quarterly.

(2) Meetings of the Statistics Council shall be convened by its Chair in writing, by telephone, telegraph, fax or by any suitable electronic means stating date, place and agenda. The Director General - Finance and the Director General - Statistics of Statistik Österreich shall be informed when meetings are convened.

(3) At least two members of the Statistics Council, the Director General - Finance or the Director General - Statistics may require the Chair of the Statistics Council to convene a meeting immediately, so long as they state the purpose and reason for the meeting. The meeting shall take place within two weeks of the date it is called.

(4) The Director General - Finance and the Director General - Statistics of Statistik Österreich are entitled to attend meetings if they so wish, however the Statistics Council may make their attendance mandatory. Specialists and information-providers may be consulted on individual subjects.

(5) The Chair of the Statistics Council shall chair its meetings and determine the manner of voting.

(6) A written record of the proceedings and resolutions of the Statistics Council shall be prepared and shall be signed by the Chair or his/her deputy.

### **Statistics Council resolutions**

**Article 46.** (1) Statistics Council meetings shall be quorate if all members have been given at least two weeks' written notice to attend, which notice shall include the agenda for the meeting concerned, and if at least half those members, including the Chair or his/her deputy, are present.

(2) Resolutions shall be passed by simple majority vote. In the event of a tie, the Chair shall have the casting vote.

(3) In emergencies, resolutions may be passed in writing or otherwise, pursuant to article 51 (3) hereunder, without the need to convene the Statistics Council (circularisation) so long as no Statistics Council member expresses any objection to the procedure within the time set by the Chair, which shall be at least three working days after dispatch of the documents. Resolutions shall be achieved if all Statistics Council members have been invited to vote and at least half of such members have done so within the time set by the Chair.

### **Duties of the Statistics Council**

**Article 47.** (1) The duties of the Statistics Council shall be as follows:

1. prepare an annual report for Statistik Österreich in compliance with article 24 hereabove;
2. issue recommendations:
  - a. on the design of administrative data, so that it can also be used for statistical purposes, and
  - b. on the co-ordination of federal ministries and Federal Statistics bodies on matters concerning statistics for the Federal Government and the European Union.
3. issue statements:
  - a. on draft regulations pursuant to article 4 (3) and (4) hereabove and their planned implementation and on statistics-related Bills,
  - b. on draft regulations within the meaning of articles 5 to 7 hereabove;
  - c. on draft orders issued by European Union bodies requiring Community statistics to be compiled and statistical surveys to be carried out.
4. issue statements and recommendations on work programmes and budgets within the meaning of article 39 hereabove.

(2) The Statistics Council shall submit:

1. the report pursuant to (1) no.1 hereabove to the Federal Chancellor, federal ministers, the Economic Council and the management of Statistik Österreich simultaneously, and
2. recommendations and statements pursuant to (1) nos.2 and 3 hereabove to the Federal Chancellor, the responsible federal minister, the Economic Council and to the management of Statistik Österreich.

(3) The Statistics Council shall also provide the Federal Chancellor with an annual activity report, which shall be presented to the National Assembly by the Federal Government.

(4) (1) no.3 c hereabove is without prejudice to the provisions in any other Federal Acts concerning the issue of statements on European Union law making.

(5) With the support of the Statistik Österreich management, the Statistics Council shall adjoin to its recommendations regarding the work programmes and statistics an appraisal of the anticipated supplementary or reduced costs associated therewith.

### **Establishment of the Economic Council**

**Article 48.** (1) Statistik Österreich shall have an Economic Council with 12 members.

(2) Economic Council members shall be appointed as follows:

1. three members shall be appointed by the Federal Chancellor,
2.
  - a. the Federal Finance Minister,
  - b. the Federal Minister for Economic Affairs ,
  - c. the Federal Agriculture and Forestry Minister,
  - d. the Federal Interior Minister, and
  - e. the Federal Labour, Health and Social Security Ministershall each delegate one member,
3. four members shall be delegated by the Works Council pursuant to article 110 of the *Arbeitsverfassungsgesetz*<sup>46</sup>, *BGBI.*<sup>47</sup> no. 22/1974.

(3) The members of the Economics Council described in (2) nos. 1 and 2 hereabove shall be appointed (delegated) for a term of five years. Said term shall commence at the first meeting of the newly appointed Economics Council. Should any member leave the Economics Council before the end of his/her term of office, a new member shall be appointed to fill his/her position. Upon expiry of its term of office, the Economics Council shall remain in post until the first meeting of the new Economics Council.

(4) The members of the Economics Council described in (2) nos. 1 and 2 hereabove may be dismissed or allowed to resign before the end of their term of office by the State officer that appointed or delegated them if

1. the member concern so requests;
2. the member concerned has been negligent in the performance of his/her duties;
3. the member concerned is unable to perform his/her duties with all due diligence as a result of serious physical or mental illness.

(5) The Chair of the Economics Council and his/her deputy shall be appointed from among the members of the Economics Council described in (2)1 hereabove by the Federal Chancellor.

(6) Economics Council members shall not at the same time be Statistik Österreich management members or senior officers.

(7) The Director General - Finance of Statistik Österreich shall immediately notify the Commercial Register of each new appointment to, dismissal of or resignation from the Economic Council.

(8) The Economics Council shall develop its own rules of procedure, which shall be subject to approval by the Federal Chancellor.

(9) Economics Council members shall be entitled to remuneration for their time and work; such remuneration shall be set by the Federal Chancellor.

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<sup>46</sup> Constitutional Labour Act

<sup>47</sup> Federal Law Gazette

### **Economic Council Committees**

**Article 49.** (1) The Economic Council may set up one or more internal committees to handle preparations for its business and resolutions or to monitor the implementation of its resolutions.

(2) A committee shall be set up to audit the Statistik Österreich annual accounts and management report.

(3) The Works Council members delegated to the Economic Council pursuant to article 110 of the *Arbeitsverfassungsgesetz*<sup>48</sup> may name at least one of their number to attend and vote at Economic Council committee meetings; this entitlement shall not apply to meetings and votes concerning relations between Statistik Österreich and its Director General - Finance or Director General - Statistics.

### **Meetings of the Economic Council**

**Article 50.** (1) The Economic Council shall meet at least four times in any financial year. Meetings shall be held quarterly.

(2) Meetings of the Economic Council shall be convened by its Chair in writing, by telephone, telegraph, fax or by any suitable electronic means stating the date, place and agenda. The Director General - Finance and the Director General - Statistics of Statistik Österreich shall be informed when meetings are convened.

(3) Any member of the Economic Council, the Director General - Finance or the Director General - Statistics may require the Chair of the Economic Council to convene a meeting immediately, so long as they state the purpose and reason for the meeting. The meeting shall take place within two weeks of the date it is called. In the event a meeting requested by at least five members of the Economic Council or by the management of Statistik Österreich is not called, those same persons may themselves convene a meeting of the Economic Council, subject to issue of the reason for the meeting.

(4) Meetings of the Economic Council and its committees may be attended only by members of the Economic Council and the management of Statistik Österreich. The Director General - Finance and the Director General - Statistics of Statistik Österreich are entitled to attend meetings if they so wish, however the Economics Council may make their attendance mandatory. Specialists and information-providers may be consulted on individual subjects. The external auditor shall attend meetings concerning the audit of the annual accounts and the management report.

(5) Economic Council members may give another member a written proxy to represent them at a particular meeting. The represented member shall not be included in the members counted to ascertain whether the meeting is quorate. The right to chair the meeting may not be delegated.

(6) The Chair of the Economic Council shall chair its meetings and determine the manner of voting.

( ) A written record of the proceedings and resolutions of the Economic Council shall be prepared and shall be signed by the Chair or his/her deputy.

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<sup>48</sup> Constitutional Labour Act

### **Economic Council resolutions**

**Article 51.** (1) Economics Council meetings shall be quorate if all members have been given at least two weeks' written notice to attend, which notice shall include the agenda for the meeting concerned, and at least half the members within the meaning of article 48 (2) nos. 1 and 2, including the Chair or his/her deputy, are present.

(2) Resolutions shall be passed by simple majority vote. In the event of a tie, the Chair shall have the casting vote.

(3) In emergencies, resolutions may be passed in writing or telegraphically or by any suitable electronic means without the need to convene the Economics Council (circularisation) so long as no Economics Council member expresses any objection to the procedure within the time set by the Chair, which shall be at least three working days after dispatch of the documents.

(4) Resolutions shall be achieved by circularisation if all Economic Council members have been invited to vote and at least half of such members, including the Chair and his/her deputy, have done so within the time set by the Chair. Economic Council members may not be represented by other members during circularisation procedures.

### **Duties and authority of the Economic Council**

**Article 52.** (1) The Economic Council shall supervise the management of Statistik Österreich.. Economic Council members shall have a duty to Statistik Österreich to perform their duties with all due diligence. The aforesaid is without prejudice to the responsibilities of the Statistics Council pursuant to article 47 hereabove or to the authority of the Federal Chancellor and the federal ministers to supervise and instruct.

(2) The Economic Council may at any time require the management to submit a report on Statistik Österreich matters. Any individual member may also require submission of a report, but only to the Economic Council itself; in the event the management of Statistik Österreich refuses to submit such a report, its submission shall be mandatory only if a total of five Economic Council members support the request. Report requests made by the Economic Council Chair do not need to be seconded by any other member.

(3)The Economic Council may vision and audit any Statistik Österreich books and records that are not subject to statistical secrecy and also its assets, namely its liquidity and securities portfolios; it may also authorize individual members or, in the case of specific duties, particular specialists, to carry out particular tasks.

(4) The Economic Council shall inform the Federal Chancellor of anything affecting the welfare of Statistik Österreich.

(5) The duties of the Economic Council are:

1. to submit to the Federal Chancellor nominations for the position of external auditor to audit the annual accounts;
2. to audit the Statistik Österreich annual accounts and management report and to report thereon to the Federal Chancellor;
3. to come to decisions concerning the multi-year general plan and on work programmes and budgets (article 39) and remunerations (article 32);
4. to accept reports on Statistik Österreich management, expenses and income and internal budget control;
5. to approve collective and company agreements entered into by Statistik Österreich;

6. to issue rules of procedure for the Director General - Finance of Statistik Österreich that set limits for investments, the granting or taking of loans and the execution of employment and other contracts requiring the approval of the Economic Council;
7. to reject or pass with a two-thirds majority resolutions to request the Federal Chancellor to dismiss the Director General - Finance;
8. to approve the purchase and disposal of real estate, holdings, undertakings and business units;
9. to approve performance bonuses and pension promises to the Director General - Finance, the Director General - Statistics, technical managers and senior officers;
10. to pass or reject resolutions concerning requests to be made to the Federal Chancellor to approve the Economic Council's rules of procedure;
11. to accept the accounts presented by the Director General - Finance.

(6) The Economic Council shall submit to the Federal Chancellor a report pursuant to (5) no.2 hereabove stating the manner and scope of its audit of the management of Statistik Österreich during the financial year, of the parties who audited the annual accounts and management report and whether the final results of such audits have given rise to any material criticisms.

(7) The Economic Council members referred to in article 48 (2) nos.1 and 2 shall have a duty to the Federal Chancellor and the federal ministers who delegated them to inform same of all resolutions passed by the Economic Council.

## **Section Five Government supervision**

### **Supervisory authority**

**Article 53.** (1) Statistik Österreich is subject to the supervisory authority of:

1. the federal minister concerned, for duties performed pursuant to article 23 (1) nos.1, 3, 5, 7 and 9;
2. the Federal Chancellor in all other matters.

(2) Supervision shall cover

1. compliance with laws and regulations,
2. compliance by Statistik Österreich with all statutory duties enjoined on it under this Act, and
3. the Statistik Österreich budget.

(3) Subject to the scope of their authorities as set out in (1) and 2) hereabove, the Federal Chancellor and the federal minister concerned may perform controls and view requested documents. In these circumstances, Statistik Österreich shall provide all appropriate information, business papers and documents on the matters indicated by the Federal Chancellor or federal minister concerned, carry out any surveys they might order and allow controls to be performed *in situ*.

(4) The Federal Chancellor shall:

1. prepare the annual accounts;
2. accept the accounts prepared by the Director General - Finance and the Economic Council;
3. approve the rules of procedure prepared by the Economic Council;
4. appoint external auditors to audit the annual accounts;
5. approve the work programme and budget (article 39 (2) and (3) ) and remunerations (article 32);
6. approve business plans pursuant to article 38 (4).

(5) the Federal Chancellor shall seek the agreement of the Federal Finance Minister before approving Economic Council rules of procedure, work and budget programmes and remunerations.

### **Supervisory proceedings**

**Article 54.** (1) With respect to their responsibilities pursuant to article 53 (1) to (3) hereabove, the Federal Chancellor and the responsible federal minister shall, via notification, overturn decisions taken by bodies of Statistik Österreich, refuse approval for decisions requiring approval or prohibit implementation of decisions if the decision concerned:

1. was passed by a Statistik Österreich body that had no authority so to do, or
2. is in breach of applicable laws or regulations.

(2) In the event of no. 1 hereabove, the Statistik Österreich bodies shall immediately take all legal steps at their disposal to ensure re-establishment of the legal *status quo* as understood by the Federal Chancellor and the federal minister.

(3) The bodies involved shall be parties to any supervisory proceedings.

(4) Resolutions forming the basis for formal supervisory proceedings may not be implemented while such proceedings are in progress.

## **Section Six Transfer of Austrian Central Statistics Office staff**

### **Civil servants, the Austrian Central Statistics Office**

**Article 55.** (1) The Austrian Central Statistics Office is established for civil servants pursuant to (2) hereunder. Said Office comes under the Federal Chancellery and is managed by the Director General - Finance of Statistik Österreich, who in this capacity reports to the Federal Chancellor.

(2) Civil servants of the Federal Government holding a permanent position with the Austrian Central Statistics Office the day prior to the universal succession referred to in article 33 (1) hereabove, as of the universal succession date shall belong to the Austrian Central Statistics Office pursuant to (1) hereabove for the term of their service and are seconded to Statistik Österreich, unless they are seconded to a subsidiary of Statistik Österreich or seconded or relocated to another federal office. Civil servants holding a permanent position at the Austrian Central Statistics Office at this time, having been transferred from a permanent position with another federal office, shall be deemed transferred to the Office at the time of universal succession.

(3) Civil servants pursuant to (2) hereabove who resign from the federal service within five years of the universal succession may be employed by Statistik Österreich under the conditions then applying to new employees, with effect from the first day of the month following their resignation. Seniority acquired with the Federal Government shall then apply to all time-related claims. Article 56 (3) hereunder shall also apply to these employees.

(4) The *Arbeitsverfassungsgesetz*<sup>49</sup>, *BGBI.*<sup>50</sup> no. 22/1974 and the *ArbeitnehmerInnenschutzgesetz*<sup>51</sup>, *BGBI.*<sup>52</sup> no. 450/1994 shall apply to civil servants pursuant to (2) hereabove.

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<sup>49</sup> Constitutional Labour Act



(5) In the case of civil servants pursuant to (2) hereabove, Statistik Österreich shall repay to the Federal Government all associated salaries and supplementary expenses and shall contribute to their pensions. Said contribution shall be 31 per cent of salary. Salaries shall be understood as all cash payments used to calculate a pension contribution. Pension contributions shall be understood as those relating to civil service pension schemes. In the event of change in the level of federal civil service pension contributions pursuant to article 22 of the *Gehaltsgesetz 1956*<sup>53</sup>, BGBl. <sup>54</sup> no. 54, the contribution, in percentage terms, shall vary accordingly. Any transfer contributions paid by insurance companies after universal succession pursuant to article 33 (1) shall be transferred to the Federal Government immediately and in their entirety. All other payments by Statistik Österreich to the Federal Government shall fall due on the 10th of the month concerned.

(6) Article 15 (4) final sentence of the *Bundes-Personalvertretungsgesetz*<sup>55</sup>, BGBl. <sup>56</sup> 133/1967 applies to civil servants pursuant to (2).

(7) (1) to (6) hereabove do not apply to civil servants whose workplace on the day prior to universal succession pursuant to article 33 (1) is the Data Processing Register

### Contract staff

**Article 56.** (1) Contract staff holding a permanent position with the Austrian Central Statistics Office under contract to the Federal Government on the day prior to universal succession pursuant to article 33 (1), shall become Statistik Österreich employees at universal succession. The Federal Government shall subrogate its rights and obligations to contract staff to Statistik Österreich. The service and salary rights of the *Vertragsbedienstetengesetz 1948*<sup>57</sup>, BGBl. <sup>58</sup> no. 86 in the then current version in particular shall remain applicable to such staff; special contract rules pursuant to article 36 of the *Vertragsbedienstetengesetz 1948*<sup>59</sup> shall no longer be allowed.

(2) Employees pursuant to (1) hereabove who, within one year of the entry into effect of the collective agreement applicable to new staff or of a business unit or individual agreement based on same, state that they wish to resign from their position pursuant to (1) of the legal provisions still applicable to them, shall be entitled to immediate employment by Statistik Österreich on the conditions applicable to new staff. In such cases there will be no right to severance pay. Seniority acquired during the previous period of service shall be taken into account when calculating all time-related claims.

(3) Employees pursuant to (1) hereabove shall be provided with official residences on the same conditions as civil servants. No title to such official residences will therefore be created and article 80 of the *Beamtendienstrechtsgesetz 1979*<sup>60</sup>, BGBl. <sup>61</sup> no. 333 and articles 24a to

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<sup>50</sup> Federal Law Gazette

<sup>51</sup> Protection of Labour Act

<sup>52</sup> Federal Law Gazette

<sup>53</sup> 1956 Salaries Act

<sup>54</sup> Federal Law Gazette

<sup>55</sup> Federal Staff Representation Act

<sup>56</sup> Federal Law Gazette

<sup>57</sup> 1948 Contracted Government Employees Act

<sup>58</sup> Federal Law Gazette

<sup>59</sup> 1948 Contracted Government Employees Act

<sup>60</sup> 1979 Civil Servants Act

<sup>61</sup> Federal Law Gazette

24c of the *Gehaltsgesetz 1956*<sup>62</sup> shall continue to apply by analogy. The rights of the employer set out in article 80 of the *Beamtendienstrechtsgesetz 1979*<sup>63</sup> shall lie with the Federal Chancellor.

(4) If employees pursuant to (1) move from being Statistik Österreich employees to being Federal Government employees, their service with Statistik Österreich shall be deemed service with the Federal Government.

(5) The entitlements to severance and anniversary bonuses of employees pursuant to (1) hereabove shall be paid by Statistik Österreich.

(6) The Federal Government's liability to pay staff pursuant to (1) shall be deemed a deficiency guarantee (article 1356 of the *Allgemeines Bürgerliches Gesetzbuch*<sup>64</sup>). Liability shall be limited to the amount due to the aforementioned staff in respect of their employment to date at the day prior to universal succession pursuant to article 33 (1) hereabove based on their assignment, including service seniority, at that date, and all normal increments and general increases in Federal Government pay.

(7) (1) to (6) hereabove do not apply to staff whose workplace on the day prior to universal succession pursuant to article 33 (1) is the Data Processing Register.

#### **Federal Government claims against staff**

**Article 57.** Federal Government claims against staff who, pursuant to article 55 (3) and article 56 (1), become Statistik Österreich employees shall, upon said transfer, be assigned to Statistik Österreich, which shall refund the aforesaid claims to the Federal Government.

#### **Application of the *Bundes-Gleichbehandlungsgesetz*<sup>65</sup>**

**Article 58.** The *Bundes-Gleichbehandlungsgesetz*<sup>66</sup>, *BGBl.*<sup>67</sup> no. 100/1993 applies by analogy to Statistik Österreich employees.

#### **Representation of the interests of Statistik Österreich employees**

**Article 59.** During the effective period of this Act, the *Dienststellenausschuss*<sup>68</sup> of the Austrian Statistics Office shall act as the Statistik Österreich Works Council within the meaning of the *Arbeitsverfassungsgesetz*<sup>69</sup>, *BGBl.*<sup>70</sup> no. 22/1974.

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<sup>62</sup> 1956 Salary Act

<sup>63</sup> 1979 Civil Servants Act

<sup>64</sup> General Civil Code

<sup>65</sup> Federal Law on Equal Treatment

<sup>66</sup> Federal Law on Equal Treatment

<sup>67</sup> Federal Law Gazette

<sup>68</sup> Works Council for civil servants

<sup>69</sup> Constitutional Labour Act

<sup>70</sup> Federal Law Gazette

## **Section Seven Other provisions**

### **Exemption from tax**

**Article 60.** (1) Statistik Österreich is an official business unit within the meaning of article 2 (5) of the *Körperschaftssteuergesetz 1988*<sup>71</sup>, *BGBI.*<sup>72</sup> no. 401. All tax and duty relief allowed to the Federal Government under federal law also applies to Statistik Österreich so long as such relief relates to the statutory activities of Statistik Österreich. Statistik Österreich is exempt from payment of administrative, court and administration of justice tax.

(2) Applications and powers of attorney required for proceedings brought under this Federal Act are not subject to stamp duty.

### **Regulations governing the award of contracts**

**Article 61.** When awarding contracts, Statistik Österreich shall apply the *Bundesvergabegesetz*<sup>73</sup> 1997, *BGBI.*<sup>74</sup> I no.56.

### **Collective contract ability**

**Article 62.** (1) As employer, Statistik Österreich may conclude a collective contract for its employees.

(2) The Director General - Finance shall immediately commence negotiations to ensure that by 31 December 2000 a collective contract applying to persons starting employment with Statistik Österreich as of 1 January 2000 has been executed.

(3) Collective contracts and company agreements do not apply to staff within the meaning of article 56 (1).

(4) Prior to the effective date of the collective contract pursuant to (2) hereabove, all new Statistik Österreich staff, with the exception of senior officers, shall be remunerated pursuant to the *Vertragsbedienstetengesetz 1948*<sup>75</sup>. Article 56 (2) applies to such staff by analogy.

## **Chapter Three Technical subcommittees, Economic Court Establishment**

**Article 63.** (1) Technical subcommittees corresponding to the departments of Statistik Österreich shall be established within Statistik Österreich by the Director General - Statistics of Statistik Österreich.

(2) Each technical subcommittee shall comprise:

1. representatives from the technical offices concerned (Federal Chancellery, federal ministries, the Court of Auditors, provincial government bodies, the Austrian National Bank, the Austrian Economic Chamber, the Presidential Conference of Austrian Chambers of

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<sup>71</sup> 1988 Corporation Tax Act

<sup>72</sup> Federal Law Gazette

<sup>73</sup> 1997 Federal Award of Contract Act

<sup>74</sup> Federal Law Gazette

<sup>75</sup> 1948 Contracted Government Employees Act

Agriculture, the Federal Chamber of Labour, the Austrian Trade Union Federation, the Federal Conference of Chambers of Freelance Workers, the Congress of Austrian Chambers of Agricultural Labour, the Austrian Association of Towns, the Austrian Association of Municipalities);

2. the required number of practising experts in the appropriate field;
3. the technical experts sitting on the Economic Court invited to provide advice at particular technical subcommittee meetings.

(3) The members pursuant to (2) no.1 hereabove shall be delegated by the office concerned, the members pursuant to (2) no.2 hereabove by the Director General - Statistics of Statistik Österreich. An alternate member shall be appointed or delegated for every member. The Federal Chancellor shall appoint the necessary number of members to the Economic Court from among the most suitable economic experts. The responsible federal minister and the Austrian Economic Chamber may submit nominations for Economic Court positions.

(4) Membership of the technical subcommittees and the Economic Court shall end if the member concerned is dismissed, dies or resigns voluntarily. Members (alternate members) pursuant to (2) no.1 hereabove shall be dismissed by the delegating office, members pursuant to (2) no.2 hereabove by the Director General - Statistics of Statistik Österreich, and members of the Economic Court by the Federal Chancellor.

(5) The technical subcommittees shall be chaired by the Director General - Statistics of Statistik Österreich or by a servant of Statistik Österreich appointed by him.

(6) Membership of the Economic Court and the technical subcommittees is an unpaid honorary position that carries no entitlement to reimbursement of expenses. Members of the Economic Court may style themselves "*Kommerzialrat für die Statistik*" (commercial statistics advisor) for the duration of their membership.

### **Duties**

**Article 64.** (1) The task of the technical subcommittees is to advise the federal ministries, the Federal Statistics bodies and Statistik Österreich on technical matters relating to federal statistics.

### **Rules of procedure, material requirements and administration**

**Article 65.** (1) Statistik Österreich shall bear the cost of the material requirements and administration of the technical subcommittees.

(2) The Federal Chancellor shall issue more detailed provisions concerning the composition of the technical subcommittees and the rules of procedure of the technical subcommittees.

## **Chapter Four Criminal provisions**

### **Administrative offences**

**Article 66.** (1) Failure to comply with the obligations to co-operate set out in articles 9 and 10 and in article 25 (4) hereabove, and the giving of deliberately incomplete statements or statements that are not to the best of the respondent's knowledge in answer to canvassing pursuant to article 9 or article 25 (4) hereabove, are administrative offences subject to a fine of up to EUR 2 180.

(2) (1) hereabove does not apply if the offence has been committed by any local or regional authority body. If an offence by such a body is suspected, and if a federal or provincial body is concerned, the body to which the suspected body ultimately reports (article 20 first sentence of *B-VG*<sup>76</sup>) shall be informed, and in all other cases the supervisory authority shall be informed.

### **Administrative jurisdiction**

**Article 67.** In the first instance, the district administrative authority of the place in which the respondent or person with a duty to co-operate has his/her primary residence (in there is no primary residence any other residence) shall have jurisdiction in the event of offences within the meaning of article 66 (1) hereabove. Should the party obliged to co-operate or the respondent be a legal personality, commercial law business partnership or registered commercial company or undertaking, geographic jurisdiction shall depend on the location of their registered office, or if there is none, on the location in which they carry out their main business.

### **Chapter Five Transition and final clauses Differentiation from other regulations**

**Article 68.** (1) The agreement pursuant to clause 15a of the *B-VG*<sup>77</sup> between the Federal Government and the provinces on co-operation in the area of statistics, *BGBl.*<sup>78</sup> no. 408/1985 and the *Datenschutzgesetz*<sup>79</sup> is unaffected unless otherwise provided by this Federal Act.

(2) The regulations in other Federal Acts on the compilation of statistics are unaffected.

### **Services provided by Bundesrechenzentrum GmbH**

**Article 69.** Bundesrechenzentrum GmbH, which was incorporated pursuant to *BGBl.*<sup>80</sup> no. 757/1996, shall continue to provide the Austrian Central Statistics Office with services for a fee and if the latter so requires up to the time of universal succession pursuant to article 33 (1) hereabove. This obligation shall expire on 31 December 2004.

### **Preparatory measures**

**Article 70.** From the day following the public announcement of this Federal Act, all measures that have not already been undertaken shall be undertaken to ensure performance of the duties enjoined on Statistik Österreich by this Federal Act. The management of Statistik Österreich and the members of its Economic and Statistics Councils shall also be appointed in time to allow them to take up their positions on 1 January 2000.

### **Reference to other legal provisions**

**Article 71.** (1) References in this Federal Act to other federal acts are to current versions of such acts.

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<sup>76</sup> Federal Constitutional Act

<sup>77</sup> Federal Constitutional Act

<sup>78</sup> Federal Law Gazette

<sup>79</sup> Data Protection Act

<sup>80</sup> Federal Law Gazette

(2) Regulations in the *Bundesstatistikgesetz 1965*<sup>81</sup>, *BGBI.*<sup>82</sup> no. 91/1965 referred to by federal law provisions shall be replaced by the corresponding regulations in this Federal Act.

### References to physical persons

**Article 72.** References to physical persons in this Federal Act shall apply to both men and women.

### Entry into force, transition clauses

**Article 73.** (1) This Federal Act enters into force on 1 January 2000.

(2) Upon entry into force of this Federal Act, the effect of *Bundesstatistikgesetz 1965*<sup>83</sup>, *BGBI.*<sup>84</sup> no. 91 ceases.

(3) Regulation *BGBI.*<sup>85</sup> no. 31/1966 on the Central Statistical Commission and the technical subcommittees is deemed a regulation pursuant to article 65 (2) hereabove. Members and alternate members of the Central Statistical Commission and technical subcommittee members at the effective date of this Federal Act are deemed appointed under this Federal Act.

(4) Article 32 (5) and (6) no.3 and article 66 (1) as amended by *BGBI.*<sup>86</sup> I no. 136/2001 shall enter into force on 1 January 2002.

(5) Article 5 (2), article 8 (2), article 32 (3) to (5), (7) and (8), article 73 (3), (7) and (9), article 74 no.9 and Schedule II as amended by Federal Act *BGBI.*<sup>87</sup> I no. 71/2003 shall enter into force on 1 January 2003. On 31 March 2004, the *Bundesgesetz über den Beirat für die Statistik des Außenhandels beim Österreichischen Statistischen Zentralamt*<sup>88</sup>, *BGBI.*<sup>89</sup> no. 11/1947 shall cease to have effect. Members of the *Beirat für die Statistik des Aussenhandels*<sup>90</sup> at 31 March 2004 shall become members of the Economic Council.”

(6) The function of the member delegated for the first time by the Minister for Health, Family and Youth to the Statistics Council according to Art. 44 para. 2 lit. 2 as amended by *BGBI.* I Nr. 62/2007 ends, deviating from Art 44 para 3, with the current term of office.

(7) Article 3 no.20, articles 4, 5, 10, 15, 16, 21, 25, 25a, 26, 28, 30, 32, 39 and 47 and Chapter Three as amended by Federal Act *BGBI.*<sup>91</sup> I no. 125/2009 shall enter into force on 1 January 2010. In the context thereof, the following shall additionally apply:

1. For the purposes of the initial completion of the register pursuant to articles 25 and 25a hereabove the existing registers held by Statistik Österreich concerning statistical units and the enterprise data of the Federal Government taxation authorities that must transmit same to Statistik Österreich without delay on its request may be also used;

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<sup>81</sup> 1965 Federal Statistics Act

<sup>82</sup> Federal Law Gazette

<sup>83</sup> 1965 Federal Statistics Act

<sup>84</sup> Federal Law Gazette

<sup>85</sup> Federal Law Gazette

<sup>86</sup> Federal Law Gazette

<sup>87</sup> Federal Law Gazette

<sup>88</sup> Federal Law on the Advisory Committee for Foreign Trade Statistics installed with the Austrian Central Statistics Office

<sup>89</sup> Federal Law Gazette

<sup>90</sup> Advisory Committee for Foreign Trade Statistics

<sup>91</sup> Federal Law Gazette

2. Statistik Österreich shall grant the operator of the Corporate Service Portal online access on 1 January 2010 pursuant to article 25 (6) hereabove;
3. The proprietors of the administrative data pursuant to article 25 (2) and article 25a (2) hereabove shall establish the technical prerequisites for transmission of the data by means of the interface defined by Statistik Österreich or the provided online application by 31 December 2010 at the latest;
4. Statistik Österreich shall provide general online access pursuant to article 25 (6) hereabove by 1 January 2011 at the latest;
5. The regulation concerning the Central Statistical Commission and the technical subcommittees, *BGBI.*<sup>92</sup> no. 31/1966, shall continue to apply with reference to the technical subcommittees pursuant to article 65 (2) hereabove;
6. The currently appointed members of the technical subcommittees and the Economic Court shall be deemed appointed pursuant to article 63 (3) hereabove.

### Implementation

**Article 74.** The following shall ensure implementation of this Federal Act:

1. the Federal Chancellor for articles 23 to 31, article 32 (1) to (3) and (9) to (13), articles 36 to 38, article 39 (1) to (6) and (8), articles 40 to 43, article 44 (1) (2) no.1 and (5) to (8), articles 45 to 47, article 48 (1) (2) no.1, (5) to (9), articles 50 to 52, article 53 (1) no.2, article 55, article 56 (1) to (5) and (7), article 57, article 61, article 63 (1) (2) no.1, 2, 4 and 5 (3) no.2, (6) and (7), article 64 and 65, articles 68 to 72;
2. the Federal Finance Minister for article 35 and article 60 (1) and (2) unless court fees and fees relating to the administration of justice or federal administrative taxes are concerned;
3. the Federal Justice Minister for article 17 (3) and (4) and article 60 (2) where court fees and fees relating to the administration of justice are concerned;
4. the Federal Labour, Health and Social Security Minister for articles 58, 59 and 62 (1);
5. the Federal Chancellor in consultation with the Federal Finance Minister for article 32 (4) no.3, (5) to (8), article 39 (7) and article 53 (5);
6. the Federal Finance Minister in consultation with the Federal Chancellor for article 33 and article 56 (6);
7. the Federal Finance Minister in consultation with the Federal Chancellor and the Federal Minister for Economic Affairs for article 34;
8. the responsible federal minister in consultation with the Federal Chancellor for article 8 (1) last sentence;
9. the responsible federal minister in consultation with the Federal Chancellor and with the Federal Finance Minister for article 11 (4) second sentence and article 32 (4) nos.1 and 2 and (12);
10. the Federal Government for article 19 (1) last sentence and article 47 (3);
11. the Federal Chancellor or the responsible federal minister for the remainder.

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<sup>92</sup> Federal Law Gazette

**Schedule I**

**SUBJECT**

1. Population
2. Education
3. Culture
4. Labour market
5. Income, consumption and assets not including financial assets
6. Social welfare
7. Buildings
8. Agriculture and forestry, hunting and fishery
9. Status, development and basis for non-agricultural industry
10. Prices
11. Science, research, innovation, technology and information technology
12. Tourism
13. Inland navigation
14. Water supply and waste water disposal
15. Environment and energy
16. Budget
17. Taxes and values for tax purposes
18. Accounts



**Schedule II**

**Survey/Statistics**

**Periodicity**

Agricultural structure survey (sample)	every 2 years
Agricultural structure survey (full survey)	every 10 years
General livestock census (sample)	annual
General livestock census (full survey)	every 10 years
Crops on arable land	annual
Aquacultures	annual
EXTRASTAT foreign trade statistics	monthly
INTRASTAT foreign trade statistics	monthly
Construction cost index for residential houses and areas	monthly
Construction cost index for structural and civil engineering	quarterly
Expert opinion pursuant to article 57a <i>Kraftfahrzeuggesetz</i>	annual
Car stock and licenses	monthly
Current demography and population forecasts	annual
Education statistics	annual
Canvas of (university/college) first-year students and graduates	ongoing
Inland navigation statistics	monthly
Summary of demographic data	annual
Demographic tables	annual
Energy statistics: energy accounts	annual
Survey of energy in the manufacturing sector	every 2 years
Mini survey: special programme - home use	every 2 years
Survey of fruit orchards	every 5 years
Crop survey (crop report)	Yield monthly Income
Employment statistics: employment, jobs, social security	monthly
Co-ordinated employment statistics	annual
Manufacturers' price index for material goods	monthly
European labour cost survey	every 4 years
European pay structure survey	every 4 years
European Labour Cost Index (LCI)	quarterly
Research and development statistics (R&D) - the business sector (company R&D)	every 2 years
Research and development statistics (R&D) – all sectors of the national economy (except the business sector, company R&D)	every 2 years
Research and development statistics (R&D) – annual assessments	annual
Animal feed accounts	annual
Budget statistics – public sector	annual
Building and housing statistics	quarterly
Poultry production	monthly
Criminal law statistics	annual
Wholesale price index	monthly
Use of goods in the manufacturing sector	annual
Harmonised consumer price index: ongoing	monthly
Auditing	every 5 years
Capital goods price index	ongoing
Hunting statistics	annual
Economic survey : manufacturing	monthly
Economic survey : services - wholesale and retail trade	monthly
Other services	quarterly
Consumer survey	every 5 years
Health events (hospital discharge statistics)	annual
Cancer statistics (cancer register)	annual
Agricultural and forestry producer prices	monthly

Agricultural and forestry accounts	annual
Ongoing income statistics	annual
Service and structural surveys	annual
Driving licenses	annual
LFBIS (=Agricultural and forestry business information system)	ongoing
Air traffic statistics	monthly
Milk production and use	monthly
Mini survey: basic programme	quarterly
Special programme : labour force survey	annual
Labour force survey : ad hoc module	annual
Natural population change including causes of death	monthly
Environmental highlight statistics	quarterly
Manufacturing indices	monthly
Productivity indices	monthly
Territorial breakdowns for the interpretation of statistics	ongoing
Registers:	
Companies Register	ongoing
INTRASTAT companies register	ongoing
Register of buildings	ongoing
Agricultural and forestry register	ongoing
Education register	ongoing
Register census – 2011 full census (preparation and samples)	ongoing
Cattle census (samples)	semi-annual
Rail freight statistics	monthly
Slaughter statistics (weights at slaughter, meat obtained, slaughter nos.)	monthly
Pig census (samples)	semi-annual
Limited companies statistics	annual
Statistical classifications	ongoing
Tax statistics	annual
Road haulage statistics	quarterly
Index of agreed minimum wages and salaries: ongoing	monthly
Auditing	every 10 years
Tourism statistics: beds	annual
Arrivals and overnight stays	monthly
Mini survey : special programme - Austrian holiday travel	annual
Austrian holiday and business travel	quarterly
National accounts:	
Annual accounts	annual
Quarterly accounts	quarterly
Input/output statistics	annual
EU computational basis for own resources	annual
Regional accounts and indicators	annual/ad hoc
National sector accounts and the general government sector:	quarterly/semi-annual/annual
Sector accounts of general government – quarterly accounts	quarterly
Maastricht indicators	semi-annual
Migration statistics taken from the CRO (central registration office)	annual
Grape harvest, wine stocks	monthly
Basic vineyard survey	every 10 years
Interim vineyard survey	annual
Residential housing building costs, residential housing financing	annual“