



# Social Benefits, Minimum income and Basic income

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## Description

*Starting from 1 July 2016, minimum income benefits got substantially reduced for beneficiaries of subsidiary protection and for persons granted temporary political asylum in the Federal Province of Upper Austria. This decision was taken irrespective of doubts about its constitutionality and conformity with international law, and irrespective of a general nationwide debate on a possible reform of the minimum income scheme.*

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The Austrian Guaranteed Minimum Income (Bedarfsorientierte Mindestsicherung) is the result of lengthy negotiations between the national government and the federal provinces (Bundesländer), which started in 2007. In 2010, the national government and the federal provinces managed to agree on the so-called "Treaty according to §15a of the Austrian Constitution" (hereafter: "15a Treaty"), which outlines the most important features and basic principles of the GMI. In each of the nine Austrian federal provinces specific legislation exists which defines details of the GMI for that province. The replacement of social assistance by GMI did not lead to a true harmonisation of the minimum income schemes across the provinces, but resulted in better coordination by defining minimum standards.

The minimum standards of the 15a Treaty also apply to beneficiaries of international protection, i.e. persons granted political asylum and beneficiaries of subsidiary protection (Art. 4 of the 15a Treaty). Still, in mid-June 2016 the Legislative Assembly (Landtag) of the Federal Province Upper Austria (Oberösterreich) decided on a reform which substantially reduces GMI cash benefits for beneficiaries of subsidiary protection and for persons granted temporary political asylum (persons granted indefinite political asylum are

not affected by the reform). For instance, GMI usually amounts to €914 per month for a single adult person in Upper Austria; now, due to the reform, these two groups of recipients are only granted €365 per month plus a so-called integration-bonus of €155 per month, which may be withheld if they do not participate in language courses etc. Overall, the maximum GMI is capped at €520, which means a reduction by 43% when compared to GMI granted to other recipients.

The coalition government of Upper Austria, with the conservative Austrian Peoples Party (ÖVP) governing together with the right-wing Austrian Freedom Party (FPÖ), argued that large numbers of new asylum seekers would lead to a financial burden for the province that would exceed the "absolute manageable load" (absolute Belastungsgrenze) in the near future. The government argued that the cost-containment effect of the reform would amount to a cumulative financial effect of ca. €71 million up to the end of 2019. Furthermore, it claimed that the reduction of benefits is needed to reduce the attractiveness of Upper Austria for potential asylum seekers, when compared to other EU Member States (cf. Sozialausschuss 2016). The reform enacted in Upper Austria was especially criticised by the Green Party, the SPÖ, different social NGOs and the UN Refugee Agency (UNHCR).

## Outlook & Commentary

The reform took place in a broader setting of an intensified national political debate about possible changes in the GMI. This – inter alia – occurred because the 15a Treaty on the GMI will expire together with the current agreement on the fiscal equalisation scheme (Finanzausgleich). For both instruments, new agreements between the federal republic and the federal provinces have to be found before the end of 2016. Reform proposals, most notably those put forward by the FPÖ and the ÖVP since late 2015, all point towards retrenchment. They include e.g. the following: lower benefits for people from foreign countries (including from other EU countries), lower benefits for people granted asylum, prohibition of foreign bank transfers, introducing a ceiling of €1,500 as a maximum benefit for families per month, granting benefits in kind instead of cash benefits, introducing a duty to perform public benefit work and increasing work incentives by a re-employment bonus.

The Social Democrats (SPÖ), governing in a coalition government with the ÖVP at the national level, have been until now opposed to explicit cuts of benefits, but signalled willingness to replace cash benefits by benefits in kind to some degree and proposed that beneficiaries of subsidiary protection and persons granted political asylum who receive GMI could be forced to live at a specific place in Austria (abolishing free choice of residence for this group).

Under the recent reform, the Federal Province of Upper Austria de facto violates the still valid 15a Treaty, whereby no direct sanctions are foreseen for such a case. Furthermore, this reform substantially hampers a renewed 15a agreement defining the same minimum standards for all of Austria, as was previously the case, creating a *fait accompli* at a lower level of generosity and possibly exerting pressure on other federal provinces to follow the example of Upper Austria to reduce the level of GMI for beneficiaries of subsidiary protection and for persons granted temporary political asylum. This would occur when such persons are free to choose their place of residence in Austria, as they will likely opt for a federal province with more generous GMI benefits.

One other problem with the reform decided in Upper Austria is the question of its constitutionality and conformity with international law. Renowned Austrian legal scholars have called this into question, as the reform may violate the Constitutional Act of the Federal Province of Upper Austria as well as the Geneva Convention on Refugees. However, it is hard to predict at the time of writing how national and/or international courts will decide in case of a lawsuit, and in what timescale.

In terms of social inclusion and in terms of integration in the more general sense, the measures decided in Upper Austria will almost certainly cause severe problematic effects for the affected benefit recipients living in Upper Austria.

### Further reading

Sozialausschuss (2016): Report of the Social Committee on the bill changing the Law on Minimum Income of Upper Austria: <http://www2.land-oberoesterreich.gv.at/internet/tgbeilage/Beilage%20171/2016%20-%20Ausschussbericht.pdf?id=7635&n=171&j=2016#page=>

Enacted legislation (28 June 2016): <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LROO&Gesetzesnummer=20000652>

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