

How has Austria overcome the economic crisis?¹

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1 Introduction

1.1 Perception of the crisis

Federal elections in the year 2008 led to the re-formation of a coalition government between the Social Democratic Party (SPÖ) and the Austrian People's Party (ÖVP). The coalition's government declaration and programme make clear references to the financial and economic crisis. For instance, the government declaration states that the "Federal Government will aim to counteract the more difficult general conditions resulting from the financial crisis by a systematic and proactive employment and labour market policy".² It is interesting to note that the economic crisis is perceived as a global (mainly external) crisis. Austria has to respond to this crisis because of its interdependence of the global economy.³

The official report of the Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection of the year 2010 describes the crisis as an international economic crisis, which started to impact on the Austrian economy in fall 2008.⁴ In the beginning of the global financial crisis, the former Austrian government was not sure if the crisis would have an

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² Programme of the Austrian Federal Government for the 24th Legislative Period (2008), <http://www.austria.gv.at/DocView.axd?CobId=33566> (31.03.2011) 21.

³ Regierungserklärung von Bundeskanzler Werner Faymann (2008), http://www.austria.gv.at/site/cob_33021/currentpage_0/6598/default.aspx (31.03.2011).

⁴ Bundesministerium für Arbeit, Soziales und Konsumentenschutz (Hrsg), Sozialbericht 2009-2010. Ressortaktivitäten und sozialpolitische Analysen (2010), www.bmask.gv.at/cms/site/attachments/3/2/3/CH0107/CMS1289832560842/sozialbericht_2010_web.pdf (23.03.2011) 22 f.

impact on the Austrian economy and to what extent.⁵ Although it was apparent in 2009 that the crisis would affect the Austrian economy, the crisis was still viewed as temporary.⁶

Press releases point to slightly different perceptions with regard to the causes of the global financial and economic crisis. According to a press article from 2009, the Minister of Finance sees problems in the regulatory system of the financial market as one main cause of the economic crisis.⁷ This view is also supported by the Austrian President, who considers the lack of regulatory control and speculations on the global financial market as major causes of the crisis.⁸ In another article, the Minister of Finance emphasizes that public debts are the main reasons of the crisis since it enabled speculators on the stock markets to cause turbulences on the global financial market.⁹

The economic report of the year 2009 sees the “unexpected rise of inflation, the real estate crisis in the United States and in other developed countries and the financial crisis¹⁰” as main causes of the economic crisis.¹¹ According to the report, the financial crisis started in the United States and expanded to other regions.¹² The economic report of the year 2010 perceives the financial markets as mainly responsible for the following economic crisis and demands for reforms in this sector.¹³

⁵ DiePresse, Bartenstein lädt am Dienstag zum Konjunkturgipfel, DiePresse.com 17.09.2008, <http://diepresse.com/home/politik/innenpolitik/415037/Bartenstein-laedt-am-Dienstag-zum-Konjunkturgipfel?from=suche.intern.portal> (01.04.2011).

⁶ DerStandard, Von "Bettlern im Nadelstreif", "Hellsehern" und 78.000 Millionären, DerStandard.at 22.4.2009, <http://derstandard.at/1240297929459/Budgetdebatte-Von-Bettlern-im-Nadelstreif-Hellsehern-und-78000-Millionaeren> (23.03.2011).

⁷ Winkler-Hermaden, Budget ist Kampfansage an Krise, DerStandard.at 22.4.2009, <http://derstandard.at/1237230416138/Budgetrede-im-Parlament-Budget-ist-Kampfansage-an-Krise> (23.03.2011).

⁸ DerStandard, Fischer fordert Konsequenzen aus Wirtschaftskrise, DerStandard.at 26.10.2009, <http://derstandard.at/1256255883499/Fischer-fordert-Konsequenzen-aus-Wirtschaftskrise> (23.03.2011).

⁹ DiePresse, Finanzrahmen: Pröll wirbt für seine Budgetpläne, DiePresse.com 19.05.2010, <http://diepresse.com/home/politik/innenpolitik/566242/Finanzrahmen-Proell-wirbt-fuer-seine-Budgetplaene?from=suche.intern.portal> (23.03.2011).

¹⁰ The citation is based on a direct translation of the author.

¹¹ Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2009 (2009), <http://www.bmwfj.gv.at/Wirtschaftspolitik/Wirtschaftspolitik/Documents/wboe2009an.pdf> (23.03.2011) 6.

¹² Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2009 (2009) 22.

¹³ Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2010 (2010), <http://www.bmwfj.gv.at/Wirtschaftspolitik/Wirtschaftspolitik/Documents/Wirtschaftsbericht%20%C3%96sterreich%202010.pdf> (23.03.2011) 6 ff.

With regard to the situation in Austria, the “break-in” of Austrian export rates is considered as one of the main consequences of the global financial and economic crisis, as the export sector was first hit by the crisis.¹⁴ Referring to labour market developments in the last two months of the year 2009, the economic report detects a breakpoint in the continuing rise of unemployment starting in 2009. However, unemployment first started to decrease in the year 2010.¹⁵ According to official reports, the peak of the crisis in the sense of high unemployment and comparably low employment rates was in summer 2009.¹⁶ This argument is supported by national labour market statistics, which show that the year 2009 was marked by comparably high unemployment (4.8 percent).¹⁷ It is interesting to note that unemployment of societal groups, which were most affected by unemployment such as young workers, persons with compulsory education and non-Austrian citizens, was significantly reduced. However, they are still more affected by unemployment than other societal groups.¹⁸ In the time period between 2007 and 2010, employment rates ranged from 72.1 (2008), 71.7 percent (2010), 71.6 percent (2009) to 71.4 percent (2007).¹⁹ Like the report of the Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection, the economic report of the year 2010 describes the labour, employment and social security measures as responses to the crisis.²⁰

¹⁴ Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2009 (2009) 23.

¹⁵ Bundesministerium für Wirtschaft und Arbeit/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2008 (2008), <http://www.bmwfj.gv.at/Wirtschaftspolitik/Wirtschaftspolitik/Documents/wb2008.pdf> (23.03.2011) 107.

¹⁶ Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2010 (2010) 22 f.

¹⁷ Unemployment rates were 3.8 percent in 2008 and 4.4 percent in 2007 and 2010 (Statistik Austria (Hrsg), Deutlicher Beschäftigungszuwachs und weniger Arbeitslose im 4. Quartal 2010; Arbeitsmarktsituation im Jahr 2010 verbessert (Pressemitteilung: 9.924-070/11), http://www.statistik.at/web_de/presse/055584 (01.04.2011); Statistik Austria (Hrsg), Arbeitsmarktstatistik: Jahresergebnisse 2007: Mikrozensus–Arbeitskräfteerhebung (2008), http://www.statistik.at/web_de/statistiken/arbeitsmarkt/erwerbsstatus/index.html (01.04.2011) 5).

¹⁸ Statistik Austria (Hrsg), Deutlicher Beschäftigungszuwachs und weniger Arbeitslose im 4. Quartal 2010; Arbeitsmarktsituation im Jahr 2010 verbessert (Pressemitteilung: 9.924-070/11).

¹⁹ Statistik Austria (Hrsg), Arbeitsmarktstatistik: Jahresergebnisse 2007: Mikrozensus–Arbeitskräfteerhebung (2008) 5; Statistik Austria (Hrsg), Arbeitsmarktstatistik: Jahresergebnisse 2008: Mikrozensus–Arbeitskräfteerhebung (2009), http://www.statistik.at/web_de/statistiken/arbeitsmarkt/erwerbsstatus/index.html (01.04.2011) 5.

²⁰ Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2010 (2010) 6 ff.

1.2 Overall responses to the crisis

In spite of labour market, employment and social security measures, Austrian government has also responded with a bank aid programme, fiscal policy, and state subsidies for investments. In the government declaration, Federal Chancellor Werner Faymann lists measures such as incentive programmes for thermal rehabilitation of buildings and support for regional employment programmes by means of business investments.²¹ In order to reduce taxes especially for the middle class, a tax reform was moved up the agenda and implemented earlier than originally planned. In spite of changes in the income tax tariff system, tax reliefs for businesses and families were introduced. The Austrian government also provided additional money for investments in the infrastructure and for research and development. In addition, an eco-bonus for vehicles was implemented. This measure should specifically support the Austrian automobile industry.²² Since Austria is a federal state it is important to note that the provinces and communities were also severely hit by the economic crisis. Provincial governments responded to the economic crisis with an expansion of budget policies. Adopted measures and strategies focused on social support and the promotion of economic development.²³

2 Reforms in terms of procedure

Social partners played a central role during the economic crisis in Austria. They had an essential impact on the measures implemented to cope with the crisis. In order to understand the role of social partners concerning crisis management, it has to be noted that social partnership is a very important part of the Austrian political system²⁴ and is

²¹ Regierungserklärung von Bundeskanzler Werner Faymann (2008).

²² Bundesministerium für Wirtschaft, Familie und Jugend/Bundesministerium für Finanzen (Hrsg), Wirtschaftsbericht Österreich 2009 (2009) 7 f.

²³ DiePresse, Gemeinden sind mit elf Milliarden Euro verschuldet, DiePresse.com 13.08.2010, <http://diepresse.com/home/wirtschaft/economist/587273/Gemeinden-sind-mit-elf-Milliarden-Euro-verschuldet?from=suche.intern.portal> (23.03.2011).

²⁴ *Hausmaninger*, The Austrian Legal System⁴, (2011); *Marko*, Verbände und Sozialpartnerschaft, in *Mantl* (Hrsg), Politik in Österreich. Die Zweite Republik: Bestand und Wandel (1992) 429; *Talos*, Sozialpartnerschaft. Austrokorporatismus am Ende?, in *Dachs* ua (Hrsg), Politik in Österreich. Das Handbuch (2006) 425; *Talos*, Sozialpartnerschaft. Ein zentraler politischer Gestaltungsfaktor in der Zweiten Republik (2008).

considered as one of its most remarkable features.²⁵ Social partnership in Austria was implemented as a voluntary arrangement after World War II in order to ensure social and political stability.²⁶ It facilitated an institutional cooperation of the major employers' and employees' interest-groups²⁷, namely the Trade Union Federation (Österreichischer Gewerkschaftsbund, ÖGB), the Federal Economic Chamber (Wirtschaftskammer, WKÖ), the Federal Chamber of Labour (Arbeiterkammer, AK) and the Chambers of Agriculture (Landwirtschaftskammern, LWK). All based on the distinctive separation of political life in Austria into a socialist and a conservative camp which has origins back in the 19th century²⁸, all social partners are closely linked (and often institutionally integrated) either to the Social Democratic Party (ÖGB and AK) or the Austrian People's Party (WKÖ and LWK). During the 1960's and 1970's - the so called "golden age of social partnership"²⁹ - the social partners served as a side-government and played a key role in nearly all areas of political life.³⁰ Changing social, economic and political conditions from the 1980's onwards led to institutional and political loss of power of the social partners. Especially the accession to the European Union in 1995 redefined the scope of actions of social partnership within the political system.³¹ In 2000, the newly formed coalition government of the Austrian People's Party (ÖVP) and the Austrian Freedom Party (FPÖ) further weakened the impact of social partners on the political decision making process.³² Furthermore, the Trade Union Federation was hit by severe scandals which led to a further decrease in members and institutional stability. As a consequence, the influence of the Trade Union Federation within the closely linked Social Democratic Party decreased dramatically.³³

After the Austrian Federal Elections of the year 2006 and the formation of a coalition government between the Social Democratic Party and the Austrian People's Party, the

²⁵ *Hausmaninger*, Legal System 47.

²⁶ *Marko* in *Mantl*, Politik 430.

²⁷ *Fink*, Unternehmerverbände, in *Dachs* ua (Hrsg), Politik in Österreich. Das Handbuch (2006) 462; *Karlhofer*, Arbeitnehmerorganisationen, in *Dachs* ua (Hrsg), Politik in Österreich. Das Handbuch (2006) 443.

²⁸ *Marko* in *Mantl*, Politik 455.

²⁹ *Talos* in *Dachs*, Politik 426.

³⁰ *Talos*, Sozialpartnerschaft 46; *Hausmaninger*, Legal System 47.

³¹ *Falkner*, Korporatismus auf österreichischer und europäischer Ebene, in *Karlhofer/Talos*, Zukunft der Sozialpartnerschaft (1999) 215 (229); *Karlhofer/Talos*, Sozialpartnerschaft und EU. Integrationsdynamik und Handlungsspielraum der österreichischen Sozialpartnerschaft (1996) 135 ff.

³² *Talos* in *Dachs*, Politik 439 ff; *Talos*, Sozialpartnerschaft 96 ff.

³³ *Karlhofer*, BAWAG und die Folgen, in *Khol* ua (Hrsg), Österreichisches Jahrbuch für Politik 2006 (2007) 657 (667).

political decline of social partnership stopped.³⁴ In 2008, after the re-formation of the coalition government, social partnership finally regained strength and became re-integrated into the centre of political decision making. The working programme of the Austrian Federal Government of 2008 stated a strong commitment to social partnership and instructed the social partners to negotiate many legislative proposals, mainly in the fields of social and employment policy.³⁵

As general conditions for social partnership in Austria have changed for the better from 2006 onwards, it was possible for the social partners to act as key players during the management of the crisis. It can also be mentioned that during the crisis two ministers mainly responsible for crisis management were personally committed to social partnership as they served in high positions in social partnership until their nomination into the federal government in 2008. Rudolf Hundstorfer, Federal Minister of Labour, Social Affairs and Consumer Protection, was President of the Trade Union Federation from 2006 to 2008 (before he acted as Vice-President from 2003 to 2006) and Reinhold Mitterlehner, Federal Minister of Economy, Family and Youth, was Deputy Secretary General of the Federal Economic Chamber from 2000 until 2008. Thus, it is no surprise that social partners not only have been involved in the planning and negotiation process, but also played a key role in the implementation of the measures, unlike in other countries.³⁶ For example, short-time work arrangements³⁷ of a company need a mandatory agreement of the social partners (§ 37b sub 1 lit 3 AMSG).³⁸

In conclusion, it can be said that no notable changes in procedure took place because of the economic crisis. After a political decline between 2000 and 2006, social partnership became a central part of Austrian politics again. Thus, the social partners have been essentially involved in all measures taken in employment legislation and have also proven themselves as crisis managers in practice emphasizing social stability in Austria.

³⁴ Talos, Sozialpartnerschaft 115 ff.

³⁵ Tomandl, Aus dem Regierungsprogramm, ZAS 2009, 1; Wöss, Sozialpolitik im Regierungsprogramm 2008-2013, RdA 2009, 168.

³⁶ AMS/WIFO (Hrsg), Kurzarbeit in Deutschland und Österreich (2011) 19 f.

³⁷ See also chapter 3.2.

³⁸ AMS/WIFO (Hrsg), Kurzarbeit in Deutschland und Österreich (2011) 20.

3 Measures taken in employment legislation as a response to this crisis

According to the Economic Research Institute (Wifo), Austria is in the top four performing EU countries regarding its handling of the economic crisis over the last three years. Particularly highlighted is that this success was largely due to domestic enterprises. The crisis management would not have functioned very well without their fabulous work. On a wider international comparison Austria also fares well, ranking 14th out of 37 countries surveyed.

In times of economic crisis, as it was the case in the last three years, many employers had to ask themselves what actions they had to take in order to cope with such situations effectively or what tools are available and how can they be particularly useful? Although cost-cutting measures are necessary, many employers try to keep the staff. Yet, due to difficult market conditions, the demand for labour is reduced and the employer has to find the right tool for his company. With regard to the different tools, it is very important that a distinction is made between small and medium-sized enterprises and large enterprises. The employment-law instrument must be appropriate for the company. Of course, the financial resources of the company should be noted. The instrument used should generate the desired outcome for the company, without significant inconvenience to the individual worker.

In response to the economic crisis, a package of crisis management measures was adopted in the Labour Market Package II 2009. There were improvements in short-time working, partial retirement and educational leave. The purpose of these new regulations is to protect jobs and to minimize the impact of the economic crisis on the employees.

3.1 Part-time employment

Part-time employment gives the employer the ability to align the labour time with the labour demand. An agreement between the workers and the employer, which stipulates a temporary or permanent reduction in working hours with a corresponding pay cut, is

required. The legal basis is § 19d AZG. Such part-time employment is said to occur when the agreed weekly working time is on average less than the legal normal working hours, or when the working hours fall below the provisions of an applicable collective bargaining agreement. The extent of the reduction of working time is not important.

It is crucial to note that the extent and the location of work need an agreement as well as their change, if they are not fixed by standards of a collective (bargaining) agreement. The change of the extent of normal working hours must be made in written form. The aim of this arrangement is to prevent employers from circumventing the overtime allowance. Extra work is carried out as soon as work time goes beyond the agreed scope of the normal weekly working time, yet it is still not overtime work. According to § 19d para 3 AZG part-time employees are obliged to work more only under certain conditions. If these conditions are fulfilled, the employee gets an extra work supplement. Because of the amendment concerning extra work supplements to the AZG, there is now a tri-partition of working hours for part-time employees: part-time regular work, part-time extra work and part-time overtime work.

The importance of part-time employment has increased in recent years. In the majority of cases the option of part-time employment is claimed by women. In economically difficult times the employer on the one hand may reduce the costs immediately by introducing part-time employment whereas at the same time, he can keep the employees and their know-how until the demand for labour rises again. The employee, on the other hand, will keep his job, yet he has to accept the wage reduction. This labour market instrument requires the agreement of both labour parties.

3.2 Short-time work

If a company is in a short-term economic crisis, the instrument of short-time work can be implemented. Short-time work is defined as a temporary reduction of normal working hours and pay due to economic difficulties. The aim is, on the one hand, to reduce the costs for a given period and to keep the employees, who will be needed again in the company after

having survived the crisis. On the other hand, employees shall be protected from unemployment.

On the 1st of February 2009, the Employment Promotion Act 2009 (AMFG) entered into force. Based on this act is a new short-time work policy which applies to all short-time work arrangements concluded after 03/10/2009 or which were extended after this date. Another new tool to meet the challenges of the crisis is the “model-social partnership agreement” which has to be applied in these cases. On all other short-time work agreements, which were concluded before 03/10/2009, the old provisions will remain applicable.

Short-time work played only a minor role in the past. The aim of the reorganisation of this device by the Employee Protection Act 2009 was to increase its attractiveness. The new arrangement is particularly characterized by its flexibility. The employer should be supported in crisis situations in order not to be forced to give notice to the employees. The short-time work arrangement is stipulated in §§ 37b and 37c AMMSG. Due to a transfer of responsibilities to the administrative board of the AMS (=Employment Market Service), the legal provisions were transferred from the AMFG to the AMMSG by the Employee Protection Act 2009. The employer has two options to introduce short-time work, either by individual agreement with each worker or by a company agreement according to § 97 para 1 Z 13 ArbVG.

During the short-time work period, under certain conditions the employer can receive a grant from the AMS. The difference compared to a temporary part-time employment is that the company must be in severe economic difficulty related to circumstances not in the sphere of the company. In addition, the employer must demonstrate that it is merely a temporary economic difficulty and that it will end in foreseeable future. Other labour law-tools must be exhausted at first, e.g. time credits or holiday entitlements from previous years.

Of particular importance for the short-time grant is the existence of a social partnership agreement, which has to be concluded between the responsible organization of Commerce and the appropriate union on the employee's side. Only in the exceptional event of a natural catastrophe a social partnership agreement is not required. The model-social partnership

agreement was signed between the Austrian Chamber of Commerce and the Austrian Trade Union Federation and is the legal foundation for all other social partnership agreements. A short-time work agreement is basically valid for a maximum of six months. However, the short-time work can be extended in various ways. The reduction in work hours must be between 10% and 90% of the standard working hours. This means that working time must be reduced by at least 10% of the working time before the short-time work starts.

It is important that the employer keeps a high number of employees. This rule is applied during the short-time work and even for a certain period afterwards. If an employment relationship ends during this period the employer is obliged to hire new employees.

Consequently, the workers suffer a cut of their salaries through the reduction of working hours. This loss of salary is compensated by extra payment from the employers who receive a short-time grant for the reduced working hours from the AMS, if all conditions are met (§ 37b AMSG). This subsidy is based on the notional unemployment benefit, which is about 55% of net wage, and on the contributions to health and pension insurance as well as on premiums which depend on the family status of the worker. The amount of the subsidy was determined in a way that a flat rate was defined for each failed working hour. It should be noted that the contributions to health, pension and unemployment insurance are charged on the full contribution basis and must be paid completely by the employer. Because of this the costs the employer has to contribute, do not correspond to the reduced working hours, despite the subsidy from the AMS.

If an employer wants to use the instrument of short-time work in his company and wants to receive a short-time subsidy, he has to undergo the following process:

1. Notification to the AMS
2. Advice from the AMS
3. Social partner agreement
4. Request to the AMS
5. Decision of the AMS
6. Report to the AMS
7. Accounting by the AMS

According to § 37c AMMSG there is also the possibility of “short-time work with qualification” which is also supported by the AMS. The employees have to pursue further vocational training during the hours not worked. Basically the same rules as in “normal” short-time work arrangements are applied, but there are some special amendments. The social partner agreement must include a sensible training concept not specified for the current employment. The qualification subsidy and the qualification support is 15% higher than the short-time work subsidy and support. The detailed conditions for short-time work are controlled by the AMS-Directive “Aid in Short-Time Work and Short-Time Work with Qualification”.

With help of this instrument the working hours can be adapted to the company's financial situation and the affected employees can remain in the company. The employee's advantage is that his job is secured, at least temporarily, and that he has to accept only a small reduction in pay because of the subsidy from the AMS. If the employee chooses the short-time work with qualification, he can do further vocational training. However, due to the amount of conditions that have to be fulfilled and high administrative costs, short-time work can be deterrent for employers. Short-time work is only a temporary solution, yet not a good remedy to meet the challenges of the crisis for smaller companies and service companies. Another disadvantage is that the reduction in costs does not correspond to the reduced working hours and that the workers enjoy protection from dismissal because of the employer's duty to keep up the number of employees.

Many companies took the opportunity to implement short-time work during the recent economic crisis. In the summer of 2009, 57.000 employees in over 300 companies worked according to the scheme of short-time work. After that date, the number of people employed according to short-time work decreased continuously. In January 2011 only 2421 employees remained registered for short-time work. Contrary to peak-times of the crisis, when reduced working time could be implemented for a 2-years period, it is now reduced again to the normal extent of 18 months.

3.3 Educational leave

Educational leave exists since 01/01/1998 and is stipulated in § 11 AVRAG. Educational leave is defined as employee's leave without salary. It is important to note that the educational leave has to be agreed upon between the employer and the employee. The conditions for educational leave were changed in the Labour Market Package II 2009. In order to take advantage of an educational leave, a previous employment relationship of at least six months is required. The educational leave itself can last between two months and one year. The educational leave can be split into several parts, but has to be consumed within a period of four years which begins with the first part of the educational leave. Seasonal workers have to be employed continuously for three months. Before they start the first part of the educational leave they must have worked for a minimum period of at least six months for the same employer.

Of particular importance is the training allowance paid by the AMS under certain conditions. § 26 AIVG stipulates that the employee is entitled to a training allowance if he meets the requirements for the entitlement to unemployment benefits. In addition he has to provide proof of participation in a training program. The extent of the training is 20 hours per week (under certain conditions only 16). The worker himself decides which training he would like to complete. He can e.g. take relevant vocational courses or language training abroad. If all these conditions are fulfilled, the employee receives a training allowance equal to the rate of unemployment benefit, at least the standard child care allowance rate.

If the employer takes advantage of the so-called programme „educational-leave-plus“, he even gets a grant. The implementation of training activities should be supported during educational leave. If an employer allows or finances training, he can apply for a grant.

Using educational leave, the employer can immediately reduce costs. Another advantage is that entitlements which depend on the period of employment do not increase. The employee enhances his know-how as well as his attractiveness on the labour market. Furthermore, he receives training money from the AMS, has health and accident insurance coverage, the time of leave is covered for the purposes of pension calculation and the AMS

pays severance pay for workers who are subject to the new severance legislation. After the educational leave the employee has the chance to obtain unemployment benefits. A disadvantage for the worker could be that he might carry the training costs, but he can ask for public subsidies or grants from the employer.

In the first four months of the year 2010, 28.280 people received a training allowance. It has to be noted that in the previous year only 11.800 applications were submitted.

3.4 Suspension agreement with reinstatement commitment

The Suspension agreement with reinstatement commitment is a consensual termination of the employment contract at a specific date connected to the commitment to re-employment on a given day. This agreement is also known as a labour law-tool to suspend or interrupt the contract. Actually, the old employment relationship is terminated and a new one is established. The reinstatement is carried out either through a one-sided commitment by the employer or by a commitment from both employer and employee. This instrument is often used for seasonal enterprises. The Austrian Supreme Court has accepted the reinstatement in case of improvement of the company's financial situation or at the beginning of the next season. In this way the employee must not file a claim for damages if the employer cannot meet the exact date of reinstatement.

The employer can reduce his costs immediately. The interrupted period does not have any financial influence to claims of the worker related to the length of his employment. The employment relationship is terminated. As a result, the employee has no further claims according to the contract of employment. Regarding severance pay, the rules of the old contract also have to be applied to the new employment relationship. Yet, there is also the possibility that severance pay under the terms of the old employment contract is paid when terminating the old contract. From the resumption of the employment relationship on, the "new" legal provisions regarding severance pay are applied on the new contract. The disadvantage of this tool is that the employee is not obliged to return to his former employer. During the suspension-period the employee is entitled to unemployment benefits

in order to be able to find a new job. According to the practice of the AMS, however, workers who benefit from a reinstatement commitment are not obliged to apply for a new job during the first two months of the interruption.

If the employee does not want to return to his old job and if he does not find a new job he can be liable for damages.

The employer's benefit is that the know-how of his employees probably remains within the company. However, the termination costs incurred can be disadvantageous for the employer in case they are not deferred. Furthermore, there is the risk that in case of longer breaks the employee is obliged to accept a new job. Another disadvantage for the employer is that the employee is not obliged to return to his old company. A possible disadvantage for the employee is that on the one hand, he has to accept a wage-reduction, although on the other hand he will receive unemployment benefits. In addition, periods of unemployment are not recognized as periods of contributions in the pension insurance.

3.5 Partial retirement

Partial retirement arrangements are an important instrument to balance supply and demand of labour. Enterprises which employ older workers have the opportunity to reduce their working hours whilst receiving financial support, so that the employees can work until they retire. The partial retirement is agreed upon between employer and employee. The reduction in salary is replaced by a partial retirement allowance from the AMS. The legal basis for the partial retirement allowance is § 27 AIVG.

Since 09/01/2009 there has been a new legal situation for agreements, starting at 08/31/2009. On all partial retirement agreements concluded before that date the old legislation is applied.

The partial retirement allowance compensates the employer for the additional burden caused by the wage adjustment and by the payment of social security contributions (which

are calculated on the basis of non-reduced working hours). Since 09/01/2009 it is no longer necessary to employ a new worker instead of the partially retired one.

The general requirement for partial retirement is a working time reduction of between 40% and 60% of normal working hours. The employee receives a wage adjustment limited with the maximum contribution basis, but at least in the height of a minimum of 50% of the difference between the old wages paid before the reduction of working hours, and the new, reduced wages. The employer is obliged to pay the same amount of social security contributions as within the framework of normal working hours. The employee can only claim partial retirement when he has reached a certain minimum retirement age. Men can only claim partial retirement from the age of 58 years on, women only from the age of 53 years on so that they retire the latest at the age of 65 (men) and 60 (women). In order to be entitled to a claim for partial retirement, the employee has to have paid at least 780 weeks (=15 years) of unemployment insurance during the last 25 years.

There are two possibilities of partial retirement arrangements: the continuous and the blocked partial retirement according to § 27 para 4 sentence 7 ALVG. As a result, there are three types of partial retirement:

1. Working time arrangements, in which the part-time extent is, on average, less than one year, i.e. that the part-time extent can be achieved in one or less than one year.
2. Working time arrangements, in which the contractual part-time extent is on average more than 12 months, and the extent of deviations, above and below, are not more than 20% of normal working hours.
3. Arrangement without any deviations to the extent of the aforementioned ones.

A blocked partial retirement is concluded when the calculation period is more than one year or if time-deviations are more than 20%.

The number of people who are working according to a partial retirement arrangement has declined in recent years. As a result, due to the crisis, there has been an attempt to make this instrument more attractive. The partial retirement brings a number of benefits for the

employee. He is entitled to a wage adjustment, the severance pay is calculated on the basis of previous work and the social security contributions are paid according to the “old” contribution basis. A disadvantage for the employer is that the costs are only partially replaced (90%/55%).

3.6 Deterioration agreement

Another tool of Austrian labour law is the so-called “deterioration agreement”. This instrument was already used before the crisis and is based on the rules of contract law. As a result there was no need to make any amendments to existing legal provisions. A deterioration agreement is an agreement concluded between employer and employee concerning future claims based on the labour contract. Due to the principle of private autonomy such an agreement is valid within the scope of compulsory provisions concerning the employment contract: compulsory legal provisions, collective bargaining agreements and collective company agreements. The minimum standard stipulated by these provisions must not be undermined. Furthermore the employee must not be forced to agree on such an agreement.

However, according to jurisdiction, the employer has the right to threaten the employee by a possible notice of termination. If the employee does not agree, the employer can impose a dismissal with the option of altered conditions of employment. In case of acceptance of the altered conditions of employment by the employee the dismissal is void. If the employer wants to offer a deterioration agreement to employees in his company, he has to respect the principle of non-discrimination as well as the provisions of the Equal Treatment Act (GIBG).

4 Conclusio

The unexpected rise of inflation, the real estate crisis in the United States and in other developed countries and the financial crisis are seen as main causes of the economic crisis affecting Austria. The consequences were on the one hand the “break-in” of Austrian export rates, on the other hand a continuing rise of unemployment, starting in 2009 with its peak in summer 2009. The Austrian government responded to the crisis particularly with a bank aid programme, changes in fiscal policy and state subsidies for investments. There can be stated no changes in social security law in Austria due to the crisis. The substantial changes were made within the labour law, namely in the Arbeitsmarktservicegesetz (law on employment market service, AMSG), the Arbeitszeitgesetz (Law on working time, AZG), in the Arbeitsvertragsrechtsanpassungsgesetz (Employment Contract Law Amendment Act, AVRAG) and the Arbeitslosenversicherungsgesetz (Unemployment Insurance Act, ALVG).

Social partners played a central role during the economic crisis, especially due to the fact that the working programme of the Austrian federal government of 2008 stated a strong commitment to social partnership and instructed the social partners to negotiate many legislative proposals. As a result the social partners were key players while handling the crisis, e.g. a short-time work subsidy can only be granted to the employer, if a social partnership-agreement is concluded. The Labour Market Package II 2009 was the main response of the Austrian government to the economic crisis: improvements were made with regard to short-time work, partial retirement and educational leave. The purpose of these new regulations was to protect jobs and to minimize the impact of the economic crisis on the employees. Additionally to these measures many employers applied already existing labour law provisions to cope with the crisis: part-time employment, suspension agreement with reinstatement commitment and deterioration agreement.

5 References

5.1 Introduction

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5.4 Legislation

AZG	=	Law on working time
AMSG	=	Law on employment market service
AMFG =		Law on employment market aid
ArbVG =		Law on labour constitution
AVRAG	=	Employment Contract Law Amendment Act
AIVG	=	Unemployment Insurance Act