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## Smoking restrictions in Austria

Dear Mr Gray!

Referring to your letter of 23 December 2009 the Austrian Federal Ministry of Health would like to thank you for your interest in Austria and our tobacco legislation.

As you might know, a smoking ban for public places – except restaurants and other catering businesses, that should install non-smoking-rooms on a voluntary basis – has been in force since January 2005.

For the voluntary broadening of non-smoking premises amongst restaurants did not work, the Austrian Parliament meanwhile adopted an Amendment to the Austrian Tobacco Act (published on 1 August 2008), including inter alia the implementation of a smoking ban as a general principle for rooms in restaurants and catering businesses, where food or drinks are provided.

Possible exceptions read as follows:

1. Smoking may optionally be allowed (only) in separate smoking rooms, if smoke does not invade into the protected area.
2. Smoking may be allowed in small catering establishments which meet the following conditions:
  - a. The establishment does not consist of more than one room for the provision of food or drinks to the guests and
  - b. the size of the floor space of this room measures less than 50m<sup>2</sup>.
3. Smoking may be allowed as well in catering establishments which meet the following conditions:

- a. The establishment does not consist of more than one room for the provision of food or drinks to the guests,
- b. the size of the floor space of this room measures more than 50m<sup>2</sup> but less than 80m<sup>2</sup> and
- c. special laws, inter alia building regulations, do forbid the construction of a separate smoking room.

Beside these matters this regulation provides certain clauses to protect employees in catering businesses where smoking is allowed.

Last but not least the Amendment to the Tobacco Act also implemented labelling obligations. Catering businesses have to indicate whether smoking is allowed or not, and penalties are provided for persons who do not comply with the law.

The Amendment to the Tobacco Act went into force on 1 January 2009, except non-smoking regulations for one-room-establishments that have instituted structural alteration measures to separate a smoking room – they still may allow smoking during a transitional periode that ends on June 30<sup>th</sup> 2010 at the latest.

It needs not to be mentioned that the regulation is a compromise between public health interests and the resistance of gastronomy to a smoking ban. A parliamentary majority that would be the precondition for a more consistent regulation respectively a complete smoking ban has not been conceivable so far, although undoubtedly desirable from the public health view and reasonable with regard to the competitive situation of hosts as well.

Nevertheless the compromise has to be taken note of even though it is far from being satisfactory. Improvements with regard to public health interests may take place if the perspectives and objectives of the influential forces in Parliament change. Meanwhile the discussion on tobacco prevention as well as on the protection against tobacco smoke needs to go on in Austria. The promotion of an increased awareness of the dangers and risks caused by tobacco smoke is at the utmost concern of the Ministry of health.

We hope we could deliver some insight, and albeit the situation regarding non smoking regulations in Austria we would like to send you a warm welcome to our country.

Yours sincerely

For the Minister:  
Dr. Johanna Schopper

Enclosure: 0

signed electronically