



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-eighth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION**

Concluding observations: Austria

1. The Committee considered the second periodic report of Austria (CRC/C/83/Add.8 and Corr.1) at its 1007th and 1008th meetings (see CRC/C/SR.1007 and 1008), held on 14 January 2005, and adopted at its 1025th meeting (see CRC/C/SR.1025), held on 28 January 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's second periodic report, which was prepared in conformity with the guidelines of the Committee. It also expresses its satisfaction with the detailed written replies to its list of issues (CRC/C/Q/AUT/2), which included extensive statistical data and allowed the Committee to gain a clear understanding of the situation of children in the State party. The Committee also appreciates the presence of a high-level inter-ministerial delegation and the frank and constructive dialogue.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee notes with appreciation the follow-up measures taken by the State party pursuant to its previous recommendations. It further welcomes:

(a) The incorporation of children's rights in the Constitutions of the Länders of Upper Austria, Vorarlberg and Salzburg;

(b) The adoption of the Parent and Child Amendment Act in 2001;

(c) The establishment of the Austrian Federal Youth Representative Council in 2001;

(d) The ratification of the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, as well as the ratification of ILO Conventions No. 138 concerning Minimum Age for Admission to Employment in 2000 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour in 2001.

C. Principal areas of concern and recommendations

1. General measures of implementation

The Committee's previous recommendations

4. The Committee notes with satisfaction that various concerns and recommendations (see CRC/C/15/Add.98) made upon the consideration of the State party's initial report have been addressed through legislative measures and policies. However, the recommendations regarding, inter alia, reservations (para. 7), coordinating body (para. 10), budget allocation for international cooperation (para. 12), and juvenile justice (para. 29) have not been given sufficient follow-up. The Committee notes that those concerns and recommendations are reiterated in the present concluding observations.

5. The Committee urges the State party to make every effort to address those recommendations in the concluding observations on the initial report that have not yet been implemented and to address the ones in the present concluding observations.

Reservations

6. The Committee takes note of the explanation by the delegation for the non-withdrawal of the reservations to articles 13, 15 and 17, but remains of the opinion that the reservations are - particularly in the light of the Vienna Declaration and Plan of Action adopted by the World Conference on Human Rights in 1993 - not necessary.

7. The Committee recommends that the State party reconsider the need for maintaining the existing reservations and continue and complete its review with a view to the withdrawal of the reservations in line with the Vienna Declaration and Plan of Action.

Legislation

8. The Committee welcomes the legislative reforms aimed at improving conformity with the Convention. The Committee also notes that at the federal level the Austrian Convention for the constitutional reform has started in 2003, a reform which intends, inter alia, to include children's rights in the Constitution. However, the Committee is concerned that some domestic legislation in the State party are not yet in full conformity with the principles and provisions of the Convention, inter alia, with regard to family reunification (art. 10), protection of a child without a family (art. 20) and refugee children (art. 22).

9. **The Committee recommends that the State party continue and strengthen its efforts to incorporate the rights of the child in the Constitution both at Federal and Länder level. The Committee also recommends that the State party take all necessary measures to ensure that its domestic legislation fully conforms with the principles and provisions of the Convention, in particular with regard to articles 10, 20 and 22 thereof.**

Coordination

10. While recognizing efforts to improve policy coordination, the Committee reiterates its previous concern regarding the lack of a specific body, at Federal and Länder level, with a clear mandate to coordinate in a comprehensive manner the implementation of the Convention.

11. **The Committee recommends that the State party undertake all measures to ensure the establishment of a permanent and effective coordination mechanism on the rights of the child at Federal and Länder level and that sufficient financial and human resources are allocated for the effective functioning of such a mechanism.**

National Plans of Action

12. The Committee notes with appreciation that the Government approved in November 2004 a comprehensive National Plan of Action “Young Rights Action Plan (YAP)” incorporating the objectives and goals of the outcome document “A World Fit for Children”, adopted by the General Assembly Special Session on Children in 2002.

13. **The Committee recommends that YAP be finally approved by the Parliament and that the State party ensure that sufficient human and financial resources are allocated in a timely manner for its effective implementation and that the Plan should promote and facilitate an active involvement of children and youth, parents and other interested and relevant bodies. It further recommends that the State party develop indicators for monitoring and evaluating the Plan.**

International cooperation

14. While welcoming the establishment of the Austrian Development Agency in 2004 and the State party’s commitment to raising the level of official development assistance (ODA) from the current 0.22 per cent of gross domestic product (GDP) to 0.33 per cent by 2006, the Committee expresses concern that the level of development assistance still falls short of the United Nations target of 0.7 per cent of GDP.

15. **In the light of its previous recommendations (see CRC/C/15/Add.98, paragraph 12), the Committee recommends that the State party continue and strengthen its activities in the area of international cooperation and increase its ODA to 0.7 per cent of its GDP, as recommended by the United Nations, paying special attention to the rights of the child in programmes and projects.**

Data collection

16. The Committee notes with appreciation the extensive data provided in the report as well as in the written replies. Nevertheless, the Committee regrets that disaggregated data in certain areas of the Convention are not available, e.g. on asylum-seeking and refugee children, on domestic and intercountry adoptions, and on budgetary expenditure on children with disabilities.

17. The Committee recommends that the State party strengthen its efforts to develop a system for a comprehensive collection of comparative data on the Convention. This data should cover all children below the age of 18 years and be disaggregated, with specific emphasis on vulnerable groups, including refugee and asylum-seeking children.

Dissemination of the Convention

18. While noting the efforts undertaken by the State party to make the provisions and the principles of the Convention widely known, the Committee is of the opinion that these efforts need to be strengthened and systematized.

19. The Committee recommends that the State party pursue its efforts to make the provisions and principles of the Convention widely known and understood by adults and children. The Committee also encourages the State party to undertake a systematic education and training programme on the principles and provisions of the Convention for children, parents and all professional groups working for and with children. It further recommends that the State party include the rights of the child in various pre-service and in-service trainings for those target groups.

2. General principles

Non-discrimination

20. The Committee notes the positive efforts made by the State party to address racial discrimination, which have also been recognized by the Committee on the Elimination of Racial Discrimination in its concluding observations (CERD/C/60/CO/1). However, the Committee is concerned at the discriminatory attitudes and manifestations of neo-Nazism, racism, xenophobia and related intolerance towards migrant communities and those of certain ethnic backgrounds and at their impact on children belonging to these groups, as well as towards refugee and asylum-seeking children.

21. The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on any grounds and against children belonging to vulnerable groups.

22. **The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention that have been undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Committee's general comment No. 1 (2001) on the aims of education.**

23. The Committee appreciates the information on the implementation of the Convention in the Länders and districts, for example, in the areas of child and youth welfare and care services, but notes with concern that various disparities exist which could in some instances amount to discrimination.

24. **The Committee recommends that the State party undertake efforts to harmonize the legal framework for child and youth welfare and care services and to introduce minimum standards in compliance with the Convention at the Länder and district level. In addition, the Committee recommends that the State party systematically monitor and evaluate the quality, accessibility and availability of these services.**

Respect for the views of the child

25. The Committee welcomes the establishment of the Austrian Federal Youth Representative Council in 2001 and of a number of organizations at the local level. It also notes the efforts made with regard to children's participation in the schools. However, the Committee is of the opinion that these efforts should be strengthened.

26. **The Committee recommends that the State party:**

(a) **Strengthen its support to the Federal Youth Representative Council and other local organizations, including through adequate provision of democratic structures and financial resources;**

(b) **In the light of article 12 of the Convention, continue to promote within the family, schools, administrative bodies and other institutions respect for the views of children and to facilitate their participation in all matters affecting them;**

(c) **Reinforce awareness-raising campaigns among the public in general as well as the education and training of professionals with a view to the implementation of this general principle.**

27. The Committee notes with appreciation the activities of the child helpline "Rat auf Draht" and the support provided in that regard by the Government. However, the Committee is concerned that more structural support is needed for the further development and effective operation of this helpline.

28. **The Committee recommends that the State party continue and increase its support for the child helpline in such a structural manner as to ensure that this important instrument enabling children to express their concerns and views and to seek help and advice can operate in the most effective way.**

3. Civil rights and freedoms

The right to identity

29. The Committee is concerned at the practice of anonymous birth in the State party (also known as “baby flaps” or “baby nests”) and notes the information that some data on the parent(s) are collected in an informal manner.

30. **The Committee recommends that the State party undertake all necessary measures to prevent the use of the so-called “baby flaps”. It further recommends that the State party, as a matter of urgency, introduce and implement legal provisions and regulations for the separate registration of all relevant medical and other data, in particular the name and date of birth of the parent(s) and allow the child at an appropriate time to have access to these data.**

Access to appropriate information

31. While welcoming the State party’s efforts to protect children from harmful media influence, the Committee shares the concern of the State party that the existing legal instruments for the limitation of the dissemination of racist, violent and violence-inducing images, texts and games through the Internet and mass media as well as video computer games need to be reviewed and extended.

32. **The Committee recommends that the State party continue and strengthen its efforts to protect children from harmful information. It further recommends that the State party provide parental education and raise the awareness of children to effectively protect children against violence on the Internet, television and computer games and encourage international cooperation in this respect.**

Protection of privacy

33. The Committee is concerned at the information from children and adolescents that their right to privacy, for example, with regard to personal correspondence, is not fully respected in everyday life.

34. **The Committee recommends that the State party take the necessary measures, such as awareness-raising and educational campaigns, to improve the understanding of and respect for the child’s right to privacy among parents and other professionals working for and with children.**

4. Family environment and alternative care

Family reunification

35. The Committee is concerned at the length of family reunification procedures and at the fact that it is restricted through the quota system and the age-limit set for children at 15 years.

36. **The Committee recommends that the State party undertake all measures to ensure that family reunification procedures fully comply with article 10 of the Convention.**

Abuse, neglect and violence against children

37. The Committee welcomes the various amendments to the criminal law and criminal procedure on sexual abuse and violence in the family. However, the Committee is concerned about the effectiveness of law enforcement and the recovery of child victims.

38. **The Committee recommends that the State party:**

(a) **Provide for the training of the personnel involved, both in the prosecution process and in the recovery process;**

(b) **Provide programmes for the modification of attitudes and behaviour of abusers and perpetrators;**

(c) **Improve the recovery programmes for child victims;**

(d) **Make an attempt to have a one-stop service where multidisciplinary and intersectoral services are provided.**

Corporal punishment

39. The Committee appreciates that corporal punishment has been prohibited by law in all settings, including in the family, the penal system and institutions of childcare. However, the Committee is concerned that corporal punishment may still be practised in the family.

40. **The Committee recommends that the State party continue its public education and awareness-raising campaigns on non-violent forms of discipline and child-rearing. The Committee also recommends that the State party undertake studies on the prevalence of violence in children's experiences and the negative effects of corporal punishment on the development of children.**

5. Basic health and welfare

Adolescent health

41. While noting the efforts made by the State party, the Committee remains concerned about the health problems faced by adolescents, in particular about drug and tobacco use and alcohol abuse and that the regulation of their consumption by children and adolescents falls within the competence of the Länders. Furthermore, the Committee is concerned at the suicide forums accessible on the Internet where young people can exchange experiences and suicidal thoughts.

42. **The Committee recommends that the State party strengthen its efforts to prevent drug and tobacco use and alcohol abuse and to harmonize the different regulations in the various Länders on this matter. The Committee recommends that the State party undertake practical measures to prevent access to information through the Internet inciting suicide.**

Harmful traditional practices

43. While welcoming the legal measures to prohibit and prosecute cases of female genital mutilation (FGM), the Committee is concerned that this practice involving girls and young women in the context of immigrant communities still occurs in Austria and abroad where certain children are taken to perform the procedure and brought back.

44. **The Committee recommends that the State party strengthen its efforts to prevent and eliminate this practice by conducting well-targeted and appropriate educational campaigns in the context of religious communities and by considering the possibility of making punishable by law the acts of those involved in the performance of FGM outside Austria.**

Right to an adequate standard of living

45. The Committee notes with appreciation the various measures adopted by the State party to combat poverty, including the adoption of family-related benefits and an increase in child allowances to help families with children. However, the Committee remains concerned at the high rate of poverty, mainly affecting single-parent families, large families and families of foreign origin.

46. **The Committee recommends that the State party take all necessary measures to further reduce and eliminate family poverty, which affects children. It also recommends that the State party continue to provide well-coordinated financial assistance to provide support to economically disadvantaged families, in particular single-parent families and families of foreign origin, so as to guarantee the right of a child to an adequate standard of living. In this regard, efforts should be increased to support, in particular, single mothers re-entering the labour market and to extend good quality and affordable child day-care facilities.**

6. Special protection measures

Unaccompanied and separated asylum-seeking children

47. While the Committee acknowledges the efforts undertaken by the State party at the Federal and Länder level to increase the number of adequate accommodation places for unaccompanied and separated asylum-seeking children, it remains concerned that the existing reception facilities are still insufficient compared to the number of applicants and that unaccompanied and separated asylum-seeking children are not systematically assigned guardians.

48. **The Committee recommends that the State party:**

(a) Ensure that guardians are systematically assigned to unaccompanied and separated asylum-seeking children and that the best interests of the child are duly taken into account;

(b) Ensure that all interviews with unaccompanied and separated asylum-seeking children are carried out by professionally qualified and trained personnel;

(c) Provide for adequate accommodation, taking into account the state of development of all unaccompanied and separated asylum-seeking children;

(d) Fully take into account the principle of the best interests of the child when deciding on the deportation of unaccompanied and separated asylum-seeking children and to avoid their placement in custody pending deportation.

Economic exploitation, including child labour

49. The Committee notes with appreciation the ratification by the State party of ILO Convention No. 138 concerning Minimum Age for Admission to Employment, but remains concerned that domestic legislation continues to permit children from the age of 12 to be involved in light work.

50. **The Committee reiterates its previous recommendation (see CRC/C/15/Add.98, paragraph 28) that the State party amend its domestic legislation by raising this age to that set in ILO Convention No. 138.**

Sexual exploitation, pornography and trafficking

51. The Committee welcomes the State party's efforts in addressing the issue of sexual abuse and child pornography, such as the National Plan of Action of 1998 against Sexual Abuse and Child Pornography on the Internet and the training of the police and other professionals. The Committee also notes the Criminal Law Amendment Act of 2004, which contains a new regulation on trafficking in human beings.

52. **The Committee recommends that the State party:**

(a) Strengthen its efforts to formulate and effectively implement a National Plan of Action against commercial sexual exploitation and trafficking, as agreed at the First and Second World Congresses against Commercial Sexual Exploitation of Children (1996 and 2001), taking into account the Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography and the existing National Plan of Action of 1998 against Sexual Abuse and Child Pornography on the Internet. International and especially regional cooperation should be further strengthened;

(b) Strengthen the capacity of the police and relevant personnel to receive complaints and investigate cases of trafficking and sexual exploitation in a child-sensitive manner, inter alia, by increasing human and financial resources, and where necessary, by providing appropriate training;

(c) Promote and support the implementation of the “Code of Conduct for the protection of children from sexual exploitation in tourism”;

(d) Ensure that children who are victims of trafficking, prostitution and pornography in the State party have access to appropriate recovery and reintegration programmes and services.

Juvenile justice

53. The Committee is concerned about the increasing number of persons below 18 placed in detention, disproportionately affecting those of foreign origin, and that persons below 18 are not always separated from adults.

54. **The Committee recommends that the State party:**

(a) Ensure the full implementation of juvenile justice standards, in particular articles 37, 39 and 40 of the Convention, as well as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System, in the light of the Committee’s day of general discussion on the administration of juvenile justice, held in 1995;

(b) In this regard, undertake the following particularly recommended measures:

- (i) Alternative measures for detention, including pre-trial detention, should be strengthened and applied as much as possible in order to ensure that this deprivation of liberty is really a measure of last resort for the shortest time possible;**
- (ii) Measures to ensure that persons below 18 held in detention are strictly separated from adult detainees, also during daytime activities;**
- (iii) Measures to ensure that the staff in juvenile detention centres are well trained to deal in a proper and adequate manner with the relatively high number of persons below 18 who are of foreign origin;**
- (iv) Measures to significantly improve the collection of data on all relevant aspects of the juvenile justice system in order to obtain a clear and transparent picture of the practices;**

(c) In the light of article 40, paragraphs 1 and 4, of the Convention, take appropriate measures to promote the recovery and social reintegration of the children involved in the juvenile justice system, including through adequate education.

7. Optional Protocols to the Convention

55. The Committee recommends that the State party submit its initial report under the Optional Protocol to the Convention on the Rights of the Child on sale of children, child prostitution and child pornography in due time, i.e. on 6 May 2006.

8. Follow-up and dissemination

Follow-up

56. The Committee recommends the State party take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Council of Ministers, the Federal Assembly, and to Länder Governments and Parliaments for appropriate consideration and further action.

Dissemination

57. The Committee further recommends that the second periodic report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

9. Next report

58. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee urges the State party to submit its next report by 4 September 2009. This report, which combines the third and fourth periodic reports, should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.
