



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of Austria, adopted by the Committee at its tenth session (2–13 September 2013)

I. Introduction

1. The Committee considered the initial report of Austria (CRPD/C/AUT/1) at its 105th and 106th meetings, held on 2 and 3 September 2013, respectively, and adopted the following concluding observations at its 117th meeting, held on 11 September 2013.
2. The Committee welcomes the initial report of Austria, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/AUT/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the dialogue with the State party's delegation and commends the State party for its preparation and the strength of its delegation, which included representatives of relevant Government ministries as well as the Austrian Länder (regions). The Committee also welcomed the presence of representatives of two independent surveillance institutions, the Austrian Ombudsman Board and the Independent Monitoring Committee for the implementation of the Convention on the Rights of Persons with Disabilities.

II. Positive aspects

4. The Committee congratulates Austria on its adoption in July 2012 of the National Disability Action Plan 2012–2020. National plans are an excellent method of bringing laws, policies and practices in line with the Convention on the Rights of Persons with Disabilities.
5. The Committee commends Austria on a number of achievements. It notes that sign language is enshrined in article 8, paragraph 3, of the Austrian Constitution and welcomes this important step towards recognizing the rights of persons with disabilities living in the State party. The Committee was also pleased to learn that hearing-impaired members of the Austrian Parliament have been accommodated through the provision of sign language. The Committee also notes that Austria is one of the first States with which it has dialogued to have established a monitoring body under article 33 of the Convention, and that it ensures persons with psychosocial and intellectual disabilities the right to vote and to be elected.

III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

6. The Committee is concerned that the German translation of the Convention on the Rights of Persons with Disabilities does not accurately represent the meaning of the Convention and may give rise to decisions that are incompatible with the Convention. For example, the German word for “integration” is used instead of the word for “inclusion”. The translation of “living independently” does not accurately reflect the meaning of the concept for the purposes of the Convention and may in fact lead to disabled persons being denied the opportunity of living in the community. During the constructive dialogue, the Austrian delegation hinted at the possibility of revisiting the German translation of the Convention.

7. The Committee recommends that the State party revise the German translation of the Convention in line with the Convention. The Committee further recommends that the State party ensure that persons with disabilities and disabled persons’ organizations be involved in the revision process.

8. The Committee noted that there are differing concepts of disability across the State party’s laws and policies. The Committee is concerned that the State party misunderstands the difference between defining disability and identifying groups of persons to whom different kinds of services should be provided. The Committee is concerned that some of the definitions are based on the medical model of disability.

9. The Committee recommends that the relevant laws be amended to include the concept of disability in accordance with the Convention.

10. The Committee notes that Austria has a federal system of government and is concerned that this has led to undue fragmentation of policy, especially as the Länder (regions) are the providers of social services. Such fragmentation can be seen in the development of the National Disability Action Plan, in which the participation of the Länder was intermittent and uneven, as well as in the different definitions of disability, different accessibility standards and different types of protection against discrimination across the various Länder. The Committee recalls that article 4, paragraph 5, of the Convention clearly states that the administrative particularities of a federal structure do not allow a State party to avoid its obligations under the Convention.

11. The Committee recommends that the State party ensure that federal and regional governments consider adopting an overarching legislative framework and policy on disability in Austria, in conformity with the Convention. It further recommends that such policy include frameworks for real and genuine participation by persons with disabilities through their representative organizations with respect to the development and implementation of legislation and policies concerning persons with disabilities, in accordance with article 4, paragraph 3, of the Convention.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

12. The Committee recognizes the progress made by Austria in developing anti-discrimination laws at the federal and regional levels. However, it notes that with the exception of the employment sector, where training programmes and improvement to employment conditions may be mandated, the only remedy available to victims of discrimination based on disability is financial compensation. Furthermore, systems for

dealing with cases of multiple discrimination, for example, disability combined with gender or ethnicity, require more development.

13. **The Committee recommends that the discrimination laws be strengthened by broadening the scope of available remedies to include other remedies that require a change in the behaviour of people who discriminate against persons with disabilities, such as injunctive powers. The Committee recommends that the State party examine the appropriateness of the current structures used to deal with situations of multiple discrimination.**

14. While the Committee recognizes women's right to reproductive autonomy, the Committee notes that under Austrian law a foetus may be aborted up to the onset of birth, if serious damage to the health of the foetus can be expected. The Committee is concerned at the apparent link between this provision and the fact that, according to statistics from the Organisation for Economic Co-operation and Development, birth rates of children with Down syndrome in Austria fell by 60 per cent between 1995 and 2006. The Committee notes that discussions on this matter are under way.

15. **The Committee recommends that the State party abolish any distinction, allowed by law, in the period within which a pregnancy can be terminated based solely on disability.**

Women with disabilities (art. 6)

16. While much has been achieved, the Committee notes that substantive equality between women and men has not yet been achieved in the State party. Women with disabilities face multiple forms of discrimination because of their gender and disability, and may also be at risk of sexual violence and abuse.

17. The Committee is concerned about a lack of advocacy and support structures for women with disabilities. The Committee notes with concern that there is only one organization representing women and it does not cover all women with disabilities in the State party.

18. **The Committee recommends that the State party adopt effective and specific measures to ensure equality and to prevent multiple forms of discrimination against women and girls with disabilities. The Committee encourages the State party to mainstream a gender perspective in its disability legislation and policy, and to facilitate advocacy by and on behalf of women and girls with disabilities. The Committee also encourages the State party, including the Länder, to offer services which are targeted and accessible to women with disabilities.**

Children with disabilities (art. 7)

19. In its 2012 concluding observations on Austria (CRC/C/AUT/CO/3-4), the Committee on the Rights of the Child expressed concern about a number of ways in which the rights of children with disabilities were at risk of being abrogated.

20. **The Committee endorses the recommendations of the Committee on the Rights of the Child and requests the State party to implement those recommendations as speedily as possible.**

Awareness-raising (art. 8)

21. The Committee notes with concern that there appear to be very few awareness-raising campaigns conducted in Austria to counter negative and outdated stereotypes about persons with disabilities which foment discrimination. The Committee is concerned that throughout Austrian society there does not appear to be a complete understanding of the

paradigm shift created by the human rights-centred approach in the Convention. The Committee is also concerned at reports that persons with disabilities face practical obstacles in matters of adoption and that that attitude is partly attributable to persisting prejudices and stereotypes against persons with disabilities.

22. The Committee encourages the State party to take initiatives in relation to awareness-raising to effectively transform the old-fashioned charity model of disability and the perception of persons with disabilities as being in need of protection, and make efforts to reinforce a positive image of persons with disabilities as holders of all the human rights recognized in the Convention. Furthermore, the State party should, in consultation with disabled persons' organizations, take specific measures, including awareness-raising campaigns, aimed at eliminating prejudices. The Committee further recommends that specific programmes be established, in consultation with disabled persons' organizations, to address negative stereotypes and all practical impediments faced by persons with disabilities in relation to adoption.

Accessibility (art. 9)

23. The Committee commends the State party for its achievements in the area of accessibility to buildings, transportation and information. The Committee notes that various cities and Länder have developed plans for improving accessibility to facilities. However, it is concerned that accessibility is poor in some areas, particularly outside of larger cities in the State party. It is particularly concerned that in at least one Länd, a minimum number of people is required for the establishment of barrier-free accessibility to public facilities. The State party should also ensure barrier-free information-communication accessibility to Austrian media, in particular the Austrian broadcasting corporation, ORF.

24. The Committee recommends that the State party develop an overarching inclusive approach to accessibility in accordance with article 9 of the Convention on the Rights of Persons with Disabilities. Accessibility standards for buildings should not be restricted by minimum size or capacity, but should apply to all public facilities in accordance with article 9 of the Convention. The Committee also recommends that the timelines for the staged plans currently being implemented in some cities and Länder as well as the plan for subtitling ORF programmes be decreased.

Situations of risk and humanitarian emergencies (art. 11)

25. While taking note of the efforts by the State party to develop a plan on disaster preparedness and its contributions to development cooperation and humanitarian aid, the Committee is concerned at the lack of information on the State party's preparedness to provide persons with disabilities with the necessary support in the event of a disaster.

26. The Committee urges the State party to provide information in its next periodic report on specific measures taken to ensure its preparedness to provide persons with disabilities with the necessary support in the event of a disaster. The State party should also step up its efforts to implement the twin-track approach in order to fully achieve disability inclusion in all spheres of Austrian Development Cooperation (OEZA).

Equal recognition before the law (art. 12)

27. The Committee notes with concern that in 2012, approximately 55,000 Austrians were under guardianship, half of whom were under guardianship in respect of all aspects of life. The Committee is concerned particularly because Austrian guardianship laws appear to be old-fashioned and out-of-step with the provisions of article 12 of the Convention. The

Committee welcomes the launch of the model pilot project on supported decision-making, under the National Disability Action Plan.

28. **The Committee recommends that the State party replace substituted decision-making with supported decision-making for persons with disabilities, and do more to ensure that persons with disabilities have access to supported decision-making and are not placed under guardianship. The Committee recommends that supported decision-making structures respect the person's autonomy, will and preferences, and be in full conformity with article 12 of the Convention, including with respect to the individual's right, in his or her own capacity, to give and withdraw informed consent for medical treatment, to access justice, to vote, to marry, to work and to choose his or her place of residence. The Committee also recommends that disabled persons' organizations be involved in all aspects of the pilot project on supported decision-making. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels, for all actors, including civil servants, judges and social workers, on recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making.**

Liberty and security of the person (art. 14)

29. The Committee is deeply concerned that Austrian law allows for a person to be confined against his or her will in a psychiatric institution if he or she has a psychosocial disability and is considered to be a danger to himself or herself or to others. The Committee is of the opinion that the legislation is in conflict with article 14 of the Convention because it allows a person to be deprived of liberty on the basis of actual or perceived disability.

30. **The Committee urges the State party to take all necessary legislative, administrative and judicial measures to ensure that no one is detained against their will in any kind of mental health facility. It further urges the State party to develop de-institutionalization strategies based on the human rights model of disability.**

31. **The Committee also urges the State party to ensure that all mental health services are provided with the free and informed consent of the person concerned. It recommends that the State allocate more financial resources to persons with intellectual and psychosocial disabilities who require a high level of support, in order to ensure that there are sufficient community-based outpatient services to support persons with disabilities.**

Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)

32. The Committee notes with concern the continued use of net beds and other forms of non-consensual practices in the State party's psychiatric hospitals and institutions where people with intellectual, mental and psychosocial disabilities are confined.

33. **The Committee recommends that the State party abolish the use of net beds, restraints and other non-consensual practices with regard to persons with intellectual, mental and psychosocial disabilities in psychiatric hospitals and institutions. It further recommends that the State party continue to provide training to medical professionals and personnel in care and other similar institutions on the prevention of torture, cruel, inhuman or degrading treatment or punishment, as provided for under the Convention.**

Freedom from exploitation, violence and abuse (art. 16)

34. The Committee commends the Austrian Ombudsman Board for the work done to investigate allegations of mistreatment in institutional settings. However, the Committee remains concerned at reports of exploitation, violence and abuse of persons with disabilities.

35. The Committee recommends that the State party take further measures to ensure protection of women, men, girls and boys with disabilities from exploitation, violence and abuse.

Living independently and being included in the community (art. 19)

36. The Committee notes with concern that over the last 20 years the population of Austrians with disabilities living in institutions has increased. The Committee is particularly concerned at this phenomenon because placing in institutions is contrary to article 19 of the Convention, and leaves persons with disabilities vulnerable to violence and abuse.

37. The Committee recommends that the State party ensure that the federal Government and the governments of the Länder step up efforts towards de-institutionalization and allowing persons with disabilities to choose where they live.

38. The Committee commends Austria on its various personal assistance programmes (at the federal and Länder levels) for persons with disabilities. However, it notes with concern that personal assistance programmes are not available to persons with psychosocial disabilities and that not all cover persons with intellectual disabilities.

39. The Committee recommends that the State party ensure that the personal assistance programmes provide sufficient financial assistance to ensure that a person can live independently in the community. The Committee further recommends that the State party harmonize and broaden its personal assistance programmes by making personal assistance available to all persons with intellectual and psychosocial disabilities.

Education (art. 24)

40. The Committee is concerned that progress towards inclusive education in Austria is stagnant. The Committee notes with concern reports suggesting that the number of children in special schools is increasing and that insufficient efforts are being made to support inclusive education of children with disabilities. It further notes that there is some confusion between “inclusive” education and “integrated” education. However, the Committee commends the establishment of inclusive education models in several Länder.

41. The Committee is disappointed that there are very few university graduates with disabilities in Austria. It commends Austria for offering sign language interpretation to students at the tertiary level, however, it noted, as mentioned by the State party during the constructive dialogue, that there have only been 13 students with hearing impairment, of whom only three have graduated from university.

42. It appears that there is a lack of teacher training for teachers with disabilities and teachers who use sign language. Without sufficient teachers with sign language skills, deaf children are at a significant disadvantage.

43. The Committee recommends that greater efforts be made to support students with disabilities in all areas of inclusive education from kindergarten to secondary school. It particularly recommends that the State party ensure that persons with disabilities, including children with disabilities and their representative organizations,

are involved in the day-to-day implementation of the inclusive education models introduced in various Länder. The Committee further recommends that greater efforts be made to enable persons with disabilities to study at universities and other tertiary institutions. The Committee also recommends that the State party step up its efforts to provide quality teacher training to teachers with disabilities and teachers with sign language skills, so as to enhance the education of deaf and hearing-impaired girls and boys, in accordance with the formal recognition of Austrian sign language in the Constitution of Austria.

Work and employment (art. 27)

44. The Committee notes with concern that approximately 19,000 Austrians work in sheltered workshops outside of the open labour market and receive very little pay.

45. While noting that Austria has a quota system for employing persons with disabilities, the Committee is concerned at reports that the majority of employers prefer to pay a fine rather than comply with the quota requirement. It notes that only 22 per cent of employers actually fulfil their obligations under the Disability Employment Act which governs this quota system.

46. The Committee notes with concern that there is a significant gender gap in the employment and income of women with disabilities, compared to men with disabilities.

47. The Committee recommends that the State party enhance programmes to employ persons with disabilities in the open labour market. The Committee further recommends that measures be put in place to narrow the employment and pay gender gap.

Participation in political and public life (art. 29)

48. The Committee commends the State party for upholding article 29 of the Convention by allowing all persons, including persons with intellectual and psychosocial disabilities, to vote. However, it appears that many polling booths are not fully accessible to persons with disabilities.

49. The Committee recommends that the State party step up its efforts to ensure that voting is fully accessible to all persons, irrespective of disability, and that voting information is provided in all accessible formats.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

50. While noting the launch of a new reporting forum on women's issues, the Committee is concerned at reports that data are rarely collected on matters affecting women with disabilities.

51. The Committee recommends that the State party systematize the collection, analysis and dissemination of data on women and girls with disabilities, and enhance capacity-building in this regard. It should develop gender-sensitive indicators to support legislative developments, policymaking and institutional strengthening for monitoring, and report on progress made with regard to the implementation of the various provisions of the Convention.

National implementation and monitoring (art. 33)

52. The Committee notes the creation of the Independent Monitoring Committee — at the federal level — to promote, protect and monitor the implementation of the Convention, in fulfilment of the provisions of article 33, paragraph 2, of the Convention. However, the Committee is concerned that the monitoring committee does not have its own budget and appears to lack the independence required by the principles relating to the status and functioning of national institutions for protection and promotion of human rights (the Paris Principles).

53. The Committee recommends that the State party guarantee full independence of the Independent Monitoring Committee, in accordance with the Paris Principles. The Committee further recommends that the Länder create their own independent monitoring mechanisms to further coordinate disability policies and practices throughout Austria.

54. The Committee recommends that the State party allocate a transparent budget for the Independent Monitoring Committee and give it the power to administer said budget autonomously.

Follow-up and dissemination

55. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant Ministries, members of relevant professional groups, such as education, medical and legal professionals, as well as local authorities and the media, using modern social communication strategies.

56. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its second periodic report.

57. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

Next report

58. The Committee requests the State party to submit its combined second and third periodic reports no later than 26 October 2018, and to include therein information on the implementation of the present concluding observations.
