

**Presentation for the occasion of the
side event of the UN Committee on the Rights of
Persons with Disabilities
on Austria**

Geneva, 02 September 2013

First of all, the Austrian NGO delegation¹ wants to express its gratitude and thank the Committee for giving us the opportunity of another exchange. It is a great honour for us to be here today. Special thanks also to the International Disability Alliance for its great assistance in providing guidance and facilitation for our group's participation in all of this.

In Austria, disability issues are mostly still seen as a responsibility of social affairs. Thus, the responsibility for the implementation of the CRPD was delegated solely to the Ministry for Labour, Social Affairs and Consumer protection. We think that the responsibility should lie with the Federal Chancellery which has a much broader scope across all sectors. Furthermore, the Austrian government still seems to be convinced that the obligations defined and outlined by the CRPD are mostly fulfilled. It is believed that the rights of persons with disabilities that are enshrined in the convention have already been implemented. To us, the governmental reports submitted to the committee seem like the effort to declare that the current situation is in accordance with the CRPD. The reports are not a distinct description of what has changed since the ratification or of what needs to be changed. In many instances, they only provide selected information on the current situation. However, this is not sufficient to sustainably change the situation of persons with disabilities in Austria. The same is true for the 250 measures listed in the National Action Plan on Disability: From our perspective, only about 20 measures may be considered effective for changing existing structures.

Austria's federal system makes a sustainable change in disability policy difficult. The Laender are responsible for most social support services for people with disabilities. Thus, responsibilities are very much split up and highly regionalised. Segregating services and institutions for children as well as for adults with disabilities are generally very well established and dominating. These services are well accepted by the public opinion, even special schools or large residential homes only for persons with disabilities. Community oriented and inclusive structures are much less developed.

¹ The Austrian NGO delegation was organized by the Oesterreichische Arbeitsgemeinschaft fuer Rehabilitation (OeAR), the umbrella organization of the Austrian disability associations that submitted the alternative report on the implementation of the CRPD in Austria. The NGO-delegation itself consists of 2 representatives of the OeAR, one representative of the Austrian Federation for Mental Health, one representative of the Austrian Association of the Deaf, 2 representatives of Independent Living Austria, 1 representative of Bizeps - Independent Living Center Vienna and 1 representative of the inclusive development organisation Light for the World. The delegation is grateful for the opportunity to actively participate in this side event of the UN-Committee on the Rights of Persons with Disabilities.

In the reply to the list of issues the government gives some examples of regional budgets in the Laender for disability services. This data shows that significantly more resources are spent for institutionalisation than for community oriented services. The ratification of the CRPD did not lead to change the policy of segregating and excluding people with disabilities. Special schools, special boarding schools, sheltered workshops and large institutions are still financed and even further supported. For example: In Salzburg, there is a rather traditional institution where about 150 persons with disabilities live, but Salzburg does not provide Personal Assistance services. Three weeks ago it was announced, that Salzburg will invest € 19 mill. into the building restoration of the large institution.

There is no harmonized strategy among the Laender for the future development of services for persons with disabilities in accordance to the CRPD. The Federation's governance is not existent. If it were not for the Independent monitoring committee the CRPD would not be known in Austria. Right from the beginning, the monitoring committee published statements and organised public meetings. Meanwhile, these public meetings have turned into important regular events that allow for a broad discussion of disability policy matters. Many persons with disabilities effectively participate in these meetings.

Overall the paradigm shift towards a human rights based disability policy is slow and hesitant in Austria. It very much depends on initiatives of persons with disabilities and their organisations. However, there are interest groups that actively advocate against inclusion and accessibility. E.g. the teacher's union or unions of health professionals, associations of construction professionals and the construction industry or religious orders or other church related associations that have provided residential services for persons with disabilities for decades.

Following are some of our most pressing issues:

Inclusive education

The current Austrian education system is not inclusive but rather based upon the concept of integration with a well established two track system: there are still more than 13.000 children in special schools. The data provided in the reply to the list of issues only includes grades one to eight, about 3000 students who attend the ninth grade in special schools are not listed. The National Report on Education 2012 states that the regular school system systematically excludes children with special educational needs from grade one onwards: Nationwide, 0,9% of all children attend the first grade in special schools, however, this rate raises to 2,3% children in special schools in the 8th grade².

² See Bruneforth, Michael, Lassnigg Lorenz (Ed.): Nationaler Bildungsbericht, Österreich 2012, Band 1, p 90
https://www.bifie.at/system/files/buch/pdf/NBB2012_Band%201_gesamt_0.pdf

On the one hand, there are districts without special schools, where all children with SEN are included and which is actually an inclusive region. On the other hand, there are districts where 80% of all children with SEN attend special schools. These differences cannot be explained but they show the failure of effective regulations for inclusive educations.

Deaf children do not receive education in sign language, neither in special schools nor in regular schools. Even though Austrian Sign Language is recognized as an official language in the Austrian constitution³, teachers in integrated classes are not sufficiently trained in Austrian sign language. Special schools for hard-of-hearing and deaf children do not use Austrian sign language systematically either.⁴

People with disabilities have a significantly lower level of education than non-disabled people in Austria.

Work and employment

There is a quota system in Austria for the employment of persons with disabilities. However, the percentage of companies that fulfil their duty to employ people with disabilities has been constantly low for the last 10 years: only about 22 to 23 % of the companies fulfil the quota. Unemployment is significantly higher among women and men with disabilities or with mental health problems than among the general population. Within this group, women with disabilities or with mental health problems are especially disadvantaged.

Furthermore, it is estimated that about 19.000 people with disabilities attend vocational therapy where they are not covered by social security and only receive pocket money.

Independent Living

There are major differences with regard to the availability of different services for people with disabilities or for people with mental health problems in the nine Laender. The number of people with disabilities who live in special institutions is alarmingly high. There are no safeguards to ensure that people do not enter or remain in institutions. It is highly problematic that in the public opinion, large institutions for people with disabilities are well accepted.

Only few women and men with disabilities receive personal assistance or similar services. Personal Assistance services are only provided in those regions where there are strong independent living initiatives that are politically active.

³ See article 8 para 3 B-VG

⁴ See Krausneker, Verena; Schalber, Kristina, 2007: Sprache Macht Wissen

There are no comprehensive plans or specific measures to reduce the number of people living in institutions. The National Action Plan on Disability only mentions the necessity of deinstitutionalisation but completely lacks any specific measures.

Some regulations exclude persons with particular impairments from community oriented measures and programmes. For example: According to regulations for Personal budgets in Vienna and Styria persons who live in institutions or persons who have a guardian are not entitled to this service.

Legal capacity

According to the Austrian Civil Code, the capacity to act can be restricted if the person is deemed as “unable to use reason”. The Austrian system of guardianship still specifies the full or partial incapacitation of persons with disabilities and thus, it does not allow self-determined decision-making and a self-determined life. Likewise, there are no established support models and mechanisms in Austria, nor is there any effective, regular control or monitoring to check whether the wishes of the individual concerned have been respected.

Accessibility / Non-discrimination

Austria lacks a national policy to establish comprehensive accessibility. Numerous barriers exist which prevent persons with disabilities from equal and independent participation in many areas of life. There are only individual measures towards the improvement of accessibility.

The protection from discrimination (inter alia by barriers) is regulated in the Federal Disability Equality Act which unfortunately is a very weak law. An official evaluation of the Federal Disability Equality Act criticises the lack of sanctions for discrimination due to barriers. If businesses or ministries do not comply with accessibility regulations or if they are not accessible they do not have to expect controls or sanctions. In the case of discrimination, the Act only provides for financial compensation but not for the removal of barriers. However, the National Action Plan on Disability merely announces a discussion about these issues and no concrete actions.⁵

Construction laws and regulations are a competence of the Laender. Recently - despite protests of persons with disabilities and contrary to the provisions of the CRPD - accessibility standards in the construction laws of Upper Austria and Vorarlberg have been deteriorated. For example, in residential buildings elevators have to be installed only from 3rd floor up. However, this provision concerns mainly rural areas and that in Upper Austria and Vorarlberg

⁵ See National Action Plan on Disability 2012-2020, measure 43, p.32.

multi-storey buildings are extremely very rare. Also, public places like restaurants, cafés etc that have less than 25 seats or stores which are accessible for less than 50 persons don't have to be accessible for customers with disabilities according to these new construction laws.

These new regulations are the result of a compromise between the interests of the industry, of commerce and the requirements of universal design. It is a common argument in Austria that legal provisions concerning accessibility must also meet the interests of the industry. In Austria, human rights of persons with disabilities are considered as an issue that can be negotiated.

(Political) Participation and Consultation

In Austria, people with disabilities and their organizations are generally invited to issue statements on law amendments or other measures in most cases. However, there is no comprehensive, structured consultation process and results-oriented inclusion from the very beginning of legal reform projects. The before mentioned example of accessibility standards in construction laws is a good example: DPOs are invited to submit a statement to the draft of the regulation but it is unclear in how far this will be considered if at all.

Furthermore, the difference between a service provider organisation and a DPO is mostly not known in Austria. Politicians as well as the public administration often mistake service providers as DPOs. Thus, the effective participation of people with disabilities in political developments also is hindered and distorted by the dominance of service providers.

With regard to deaf people, both accessibility and participation in society are highly dependent upon availability of Austrian sign language interpreters. Although the government acknowledges the lack of interpreters in the National Action Plan on Disability, it but does not specify effective measures.