



Convention on the Rights of Persons with Disabilities

Distr.: General
7 October 2013

Original: English

Committee on the Rights of Persons with Disabilities

Tenth session

Summary record of the 105th meeting

Held at the Palais Wilson, Geneva, on Monday, 2 September 2013, at 3 p.m.

Chairperson: Ms. Cisternas Reyes

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 35 of the Convention

Initial report of Austria (CRPD/C/AUT/1; CRPD/C/AUT/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Austria took places at the Committee table.*
2. **Mr. Helmut Tichy** (Austria), introducing his country's initial report (CRPD/C/AUT/1), highlighted the presence in his delegation of representatives from both the federal and Land (regional) levels, the European Commission and two national independent institutions that monitored the implementation of the Convention, namely, the Ombudsman Board and the Monitoring Committee. His country had been among the first to ratify the Convention and the Optional Protocol thereto, which had entered into force for Austria on 26 October 2008. The Convention had given added impetus to policy on disability, equal treatment and non-discrimination and become a frame of reference for disability rights action.
3. Great importance was attached in Austria to cooperation with NGOs, and a broad consultation had been held following ratification of the Convention in accordance with the principle of "nothing about us without us". Civil society organizations had participated in the development of the National Action Plan on Disability adopted in July 2012. It was noteworthy that several persons with disabilities were members of the Austrian parliament, where sign-language interpretation was provided, and that from January 2014 there would be two blind judges in the Austrian judiciary.
4. The National Action Plan on Disability 2012–2020 was the main framework for Austrian disability policy. It focused on eight key policy areas and highlighted the importance of the human rights approach to disability. In connection with the implementation of the Plan, a task force consisting of representatives of the federal and regional administrations, social partners, ombudspersons, researchers and disability organizations had been established to analyse data, set priorities and compile recommendations. The National Plan was complemented by efforts at the regional level and was aligned with the aims of the European Union Disability Strategy 2010–2020.
5. The shift towards seeing persons with disabilities as active participants in society had started in Austria in the 1990s, and a special anti-discrimination clause in respect of person with disabilities had been introduced in the Federal Constitution in 1997. The promotion and protection of human rights was the explicit responsibility of the Ombudsman Board, which, inter alia, monitored facilities and programmes for persons with disabilities in order to prevent exploitation, violence and abuse.
6. The Disability Equality Law of 2006 afforded protection against discrimination at work and in daily life and established the office of disability ombudsman. The law also provided for a mandatory conciliation procedure as an alternative to legal proceedings; since 2006, 47 per cent of conciliation proceedings had resulted in a settlement. Independent research on the impact of the Disability Equality Law had highlighted the positive effects of a successful conciliation procedure and the increasing awareness of the concept of a barrier-free society. In response to criticisms expressed by the researchers, protection against discrimination had been improved with regard to private insurance contracts and a new form of class action had been introduced in January 2013.
7. Accessibility was a key area of Austrian disability policy: 300 of the conciliation proceedings that had taken place under the new law were related to barriers in different areas of life and two thirds of the cases brought had succeeded.

8. Equal participation in education was fundamental to equal participation in society; accordingly, objectives had been set and a variety of measures taken in the field of inclusive education. The country's model inclusive region approach had been highlighted as a good practice at the sixth session of the Conference of States Parties to the Convention on the Rights of Persons with Disabilities in July 2013.

9. The transition from the current system of guardianship to a support system would be a long process. As part of that process, a pilot project on supported decision-making would be launched in the second half of 2013, and the possibility of peer counselling and free choice, by the persons concerned, of those who supported them would be explored.

10. Employment was one of the best ways of protecting against poverty. In that connection, he wished to highlight a vocational programme for disadvantaged young people introduced in 2003, which had been extended on account of its success, and a pilot project that would soon be launched to develop an inclusive work environment for persons with disabilities. Personal assistance, which enabled persons with disabilities to participate in the labour market, was a shared responsibility of the federal Government and the Länder, and different support systems were in place at the two levels. Efforts were being made to develop national regulation of personal assistance and broaden provision to all groups of persons with disabilities.

11. Social services were intended to assist independent living and were the responsibility of the Länder and local communities. Federal grants were provided for social services and a database of services had been established in 2012. Long-term financial support for persons with disabilities and those in need of care was received by 5 per cent of the Austrian population.

12. **Ms. Schulze** (Chairperson of the Monitoring Committee, Austria) said that, following ratification of the Convention, the Government had declared that no further action was required. Her Committee therefore welcomed the recent change of heart, which demonstrated greater recognition of the problems faced by persons with disabilities in realizing their rights. Implementation of the Convention across the different areas of government and levels of administration was difficult, however. The authorities in the Länder had been particularly slow to take action and had initially denied that the Convention was relevant at the regional level.

13. Awareness-raising was a cornerstone of Convention implementation and should be accorded high priority. Self-advocates with whom her Committee had met highlighted the lack of respect often experienced by persons with disabilities, notably in health-care settings, and reported not being taken seriously or not being considered equal. Yet efforts to challenge perceptions of disability had thus far been ad hoc.

14. Inclusive education was key to changing attitudes and tackling barriers. Accordingly, in its first recommendation, her Committee had called for education, including lifelong learning and the teaching profession, to be made accessible to all. The exclusion of persons with disabilities from mainstream education risked undermining efforts to promote equality in other areas of life. For example, support with decision-making could not be provided by adults who had had little contact with persons with disabilities. Likewise, violence prevention campaigns would fail as long as persons with disabilities remained in institutional settings where they were not enabled to set boundaries to protect themselves. The lack of political commitment and resources to implement inclusive education was therefore of deep concern.

15. Measures were needed in many areas to increase participation, including of non-disabled persons. It was also important to ensure that self-advocates, supporters and family members not only gained access to discussions, but could also participate meaningfully. While various ministries had improved their participatory processes, there were worrying

signs of complacency. Moreover, the standards developed by the federal Government were not being applied across the various levels of administration.

16. Lastly, it was recognized, including within the Government, that her Committee had certain institutional shortcomings. She was therefore puzzled by the assertion in the replies to the list of issues (CRPD/C/AUT/1/Add.1) that those problems had been addressed.

17. **Mr. Krauter** (Chairperson of the Ombudsman Board, Austria) said that his organization was an auxiliary institute of the parliament and performed its duties independently. Any person affected by maladministration could file a complaint with the Board. Since 2012, the Board had taken on the additional responsibility of promoting and protecting human rights as an independent authority in accordance with article 16, paragraph 3, of the Convention and as a national preventive mechanism under the Optional Protocol to the Convention against Torture. It was therefore competent to undertake unannounced visits to facilities that served persons with disabilities, with the participation of peer counsellors and interpreters if required, and had the right to access all areas in the facilities visited and to conduct interviews with patients and their family members and with staff. If any evidence of human rights abuses was found, an investigation was launched, which could lead to an official finding of maladministration.

18. The work of the Board was discussed with representatives of the public authorities on a weekly television programme. The Board was assisted by a human rights advisory council, which helped to determine investigative standards, and by NGOs, ministries and experts from the Council of Europe. The Board also networked with other ombudsman institutions and exchanged information on the performance of duties under article 16, paragraph 3.

19. Investigations had been launched into a number of cases involving maladministration or poor conditions in facilities serving persons with disabilities. The most common problems encountered were authoritarian behaviour on the part of staff and a lack of regard for the autonomy of clients in some facilities. Other issues raised included poor building design, improper placement of young persons in institutions, a lack of complaint procedures, and poorly qualified staff. Fragmentation of responsibility for disability issues was a particular difficulty, as was the lack of reliable data on persons with disabilities who were cared for in institutions. The most significant tasks facing the Board were to promote deinstitutionalization and inclusion in the community and to raise awareness of the equal rights of persons with disabilities.

20. **Mr. McCallum** (Country Rapporteur) said that, while the National Action Plan on Disability was welcome, greater coordination was needed between the Länder and the federal Government to ensure that the Convention was applied without any limitations or exceptions, as stipulated in the instrument. The medical model of disability appeared to dominate in Austrian legislation. Consideration should therefore be given to aligning legislation with the social model of disability.

21. Anti-discrimination legislation should be strengthened. Currently, only one type of remedy was provided for in case of discrimination, namely, financial compensation; there was thus no requirement to remove discriminatory barriers. Furthermore, the legislation on discrimination varied in the different Länder and did not provide for any injunctive powers.

22. Much had been achieved in the area of accessibility, but, with responsibilities divided between the federal Government and the Länder, it seemed that greater coordination was called for. A common inclusive approach to accessibility should be developed.

23. Inclusive education had not been fully embraced in the State party, and the number of children in special schools was rising. There were also few university graduates with

disabilities. Moreover, the lack of teacher training for teachers with disabilities and for teachers who could use sign language put deaf children at a significant disadvantage.

24. Regarding the employment of persons with disabilities, there were too many sheltered workshops in the State party. Approximately 19,000 Austrians were employed in such workshops, receiving low wages. There were also significant variations in the number of workshops in the different Länder; that warranted the introduction of a coordinated federal approach, including limits on the number of workshops. In addition, action should be taken to address the significant gap in employment rates for men and women with disabilities. Although quotas had been introduced to encourage the employment of persons with disabilities, fewer than a quarter of companies adhered to them, the majority preferring to pay a supplementary tax. His personal view was that programmes to increase employment rates were preferable to the application of quotas.

25. Too many Austrians with disabilities were living in institutions, where they were more vulnerable to violence and abuse, and he hoped that both the federal Government and the Länder would increase efforts to enable them to choose where they lived. In 2012, approximately 55,000 Austrians were under guardianship, half of them for all aspects of life. The guardianship laws were out of step with article 12 of the Convention and, despite the planned pilot programme on supported decision-making, much more needed to be done to limit substitute decision-making. More also needed to be done to eliminate sexual and other kinds of violence against persons with disabilities.

26. As to the established right of persons with disabilities to vote, too few polling booths reportedly met full accessibility standards, which was a matter of concern. Austrian disabled persons' organizations were also understandably unhappy with the German translation of the Convention, which referred to "integration" instead of "inclusion". The issue highlighted the need for persons with disabilities to be involved in preparing future translations of the Convention.

27. The establishment of a committee to monitor the implementation of the Convention was a welcome development, but it needed to be fully independent and to have an adequate budget. A monitoring committee should also be set up in each Land to ensure a coordinated approach to persons with disabilities across the country.

Articles 1–10

28. **Mr. Tatić** asked the delegation to indicate the number of cases of discrimination against persons with disabilities that had been settled out of court and the outcome of those that had gone to court. In particular, he wondered if there had been any instances of the guilty parties remedying their behaviour instead of just paying the fines established in the relevant law.

29. He enquired whether the provision of sign-language interpreting in the parliament was an ad hoc arrangement or a permanent one, and when the various stages of the plan to remove architectural barriers in Vienna by 2042 would be completed. He also wished to know how public procurement now worked under the new European Union regulations on the matter and what mechanisms had been put in place to ensure that all goods and services acquired with public money were accessible to all. Lastly, he asked whether the Government had plans to improve the mechanisms for monitoring compliance with the building code to ensure the accessibility of all new buildings since, according to civil society reports, stronger oversight was required.

30. **Ms. Degener** said that the use of the term "integration" instead of "inclusion" in the German translation of the Convention had been strongly criticized because integration referred to making a person fit into society, while inclusion referred to changing society to make room for the different needs of persons with disabilities. A German NGO had

prepared a shadow translation that was already widely used by civil society, and she wondered if the Austrian Government had any plans to adopt it as the official translation of the Convention, which would set an example for the other German-speaking countries.

31. The Committee had received information that women and girls with disabilities in Austria lacked protection against violence, abuse and discrimination in employment, and she wished to know if the Government had plans in place to address the situation.

32. **Mr. Langvad** asked how Austria intended to incorporate the Convention in its national legislation, especially considering it was a federal State. The concept of disability used in Austria seemed to be rather medical and narrow, but he would welcome clarification of the matter. Information on how multiple discrimination was addressed and how older persons with disabilities, for example, were protected against it by law, would be appreciated. He also wished to know how persons with disabilities were protected against discrimination outside the field of employment. He enquired what measures were taken to protect the best interests of the child and the child's human rights when decisions were made that concerned a child with disabilities. Lastly, he asked what plans the Government had to change Austrian society's perceptions of persons with disabilities, which seemed to be very outdated.

33. **Ms. Quan-Chang** requested more information on how the State party's anti-discrimination laws protected persons with disabilities from minority ethnic groups against multiple discrimination and ensured their access to health, education and employment opportunities.

34. **Mr. Al-Tarawneh** asked whether as much attention was being paid in the Government's national accessibility plan to education, training and awareness-raising as to the other areas the plan covered, such as construction and public services. More information on how access to information and communication technologies was being addressed would be appreciated. The application of the concept of universal design might be a way to ensure a shift towards the inclusion rather than the integration of persons with disabilities.

35. **Mr. Kim Hyung Shik** said that he too wished to raise the issue of the medical definition of disability, which, by emphasizing the incapacity of persons with disabilities, conferred an inferior social and economic status on them and thus excluded them from society. It was essential to deconstruct the view of disability as a charity issue.

36. He wished to know what group of persons was supposed to be protected by the law against disability-related discrimination referred to in paragraph 53 of the State party's report and whether only certain types of disability were covered. He was concerned that the focus on protection ran counter to the spirit of the Convention, which encouraged a rights-based approach. Disabled persons' organizations had reported that only a small proportion of the measures envisaged in the National Action Plan on Disability had been put into effect. He wondered how the plan interfaced with the Council of Europe action plan.

37. **Mr. Buntan** asked the delegation to report on any efforts to harmonize the anti-discrimination laws in force at the Land and federal levels. He also asked how distinctions were drawn between service providers and disabled persons' organizations in relation to the representation of persons with disabilities in law-making and policymaking.

38. **Mr. McCallum** said that the fragmentation between the federal Government and the Länder was a major problem in Austria. He would like to know if there were plans to improve coordination between the two. For example, the Länder were by and large the providers of services for persons with disabilities, but their involvement in the National Action Plan on Disability was limited. Insufficient thought had possibly been given to awareness-raising to bring about a real paradigm shift in attitudes to disability, and more programmes of all kinds were needed. Lastly, he was concerned by reports that it was

difficult to obtain information on Austrian websites about the State party's submission of its initial report under the Convention.

39. **Ms. Peláez Narváez** asked what specific measures had been taken to address the multiple discrimination faced by women with disabilities in regard to violence, employment and participation in political life. Apparently, there was only one organization in Austria for women with disabilities, and that was only for women with intellectual disabilities; that situation needed to be rectified. She would appreciate more detailed information on the practical measures being taken to improve the political representation of women with disabilities as part of the National Action Plan on Disability. She also wished to know whether the Government's general gender policies and women's rights policies took account of disability issues.

40. According to the Committee on the Rights of the Child, the number of children with disabilities in Austria who were institutionalized was alarming. The ruling that parents could ultimately decide whether inclusive or special education was best for their child was a major setback. She enquired what follow-up had been given to the recommendations of the Committee on the Rights of Child.

41. By law, abortions were permitted in Austria up to the last stages of pregnancy if the unborn child was diagnosed as having a disability, and the number of children with Down syndrome had fallen considerably, unlike in other European countries where it had risen slightly. She wished to know what information was made available to the parents when a foetus was diagnosed as having a condition such as Down syndrome, so that they would understand the child's real development potential and appreciate the contribution made by disability to the diversity of human society.

42. **Mr. Babu** asked which specific format had been used to publish the easy to read version of the National Action Plan on Disability and which category of persons with disabilities it targeted. Information on access to HIV/AIDS and to sexual and reproductive health services for persons with disabilities would be appreciated.

43. **Mr. Lovászy**, referring to the organizational structure of disability policy in Austria presented in paragraph 15 of the State party's report, asked whether the body responsible for Austrian standards on accessibility, which covered housing and transport, also dealt with education and communication, including sign-language interpreting services and the related standards. He was concerned that if the body operated at the Land level only, it would be difficult to guarantee equal accessibility standards nationwide. More details on the financial grants available to companies for improving accessibility would be appreciated. He wished to know if all disability-related legislation had been evaluated during the process referred to in paragraph 69 of the State party's report. He asked what was meant by "medium term" when the Government stated, in paragraph 116 of the report, that it aimed to have all television programmes subtitled in the "medium term". With regard to sign language, he requested an explanation as to why the availability of sign-language interpreting was limited during parliamentary sessions after 7 p.m. and asked if Austria had a sign-language version of the Convention.

44. **Mr. Ben Lallahom** asked whether persons with disabilities in Austria had been properly informed about the content of the Convention, and, if not, what strategies would be used to achieve that objective.

45. **The Chairperson**, speaking in her personal capacity, asked what specific steps the State party planned to take to mainstream and implement a social model of disability based on respect for human rights in relation to the various topics covered by the Convention. She wished to know why cases of alleged multiple discrimination on the ground of disability plus another ground were referred to the Federal Social Office rather than the Equal Treatment Commission. The delegation should indicate what effective judicial remedies

were available to persons with disabilities who suffered discrimination, apart from mere financial compensation. In the context of equality and non-discrimination, she asked why abortions of fetuses with malformations were allowed until the end of pregnancy, whereas in all other cases abortion was allowed only within the first three months of pregnancy.

The meeting was suspended at 4.45 p.m. and resumed at 5.10 p.m.

46. **Mr. Helmut Tichy** (Austria) said that the Committee's comments had been very constructive and would help the Government to identify priorities for action, one of which, clearly, was the terminology used in the official German translation of the Convention. While Austria generally aimed to share a common German-language version of international instruments with other German-speaking countries, that was not absolutely necessary. The Government would examine the issue and consider adopting the proposed alternative translation.

47. The provision of sign-language interpretation of parliamentary sessions was a permanent arrangement. The interpretation was available to the public through television broadcasts. It did not end at 7 p.m., as reported, but covered the meetings in their entirety.

48. **Mr. Hofer** (Austria) said that definitions of disability in Austrian law varied slightly according to the objective of the law in which they were contained, but that all definitions generally described disability as a condition of the body, mind or spirit that made it difficult for an individual to participate fully in society. In 2010, a new ordinance had been issued establishing a more modern, medical approach to identifying disabilities. That approach used different criteria for children compared with adults and attempted to take account of the social aspect of disability.

49. With regard to awareness-raising, the Federal Ministry of Labour, Social Affairs and Consumer Protection had worked in cooperation with the Austrian public broadcasting company Österreichischer Rundfunk (ORF) to produce a television programme highlighting opportunities for persons with disabilities in the labour market. While there were laws regulating television programming, private broadcasters were free to create their own programmes. Government health policies for children and young people with disabilities focused on early diagnosis and equal rights. The Government, in cooperation with the Council of Europe, would host a large conference on human rights and persons with disabilities in 2016.

50. The federal structure of Austria had been enshrined in the Constitution since 1920. The federal Government and the Länder were required to ensure that their laws were compatible. The Länder had not participated in the drafting of the National Action Plan on Disability, but they had recently proposed becoming more active in its implementation, and it was expected that increased cooperation would result in better coordination of laws at the federal and Land levels.

51. **Ms. Edler** (Austria) said that the task force for the implementation of the National Action Plan on Disability included one Land representative, and she was confident that other Länder would also follow suit and participate. Her own Land, Styria, was the only one thus far to have established an action plan on disability, which covered the period from 2012 to 2020 in three separate phases. Several specific awareness-raising activities had been carried out by the Länder, such as the dialogue held with persons with disabilities on the implementation of the Convention in Lower Austria. In another Land, an inclusive education curriculum had recently been developed, and workshops were planned to raise awareness among teachers, public officials and school authorities.

52. **Mr. Rubisch** (Austria) said that an agreement had been reached in 47 per cent of the more than 1,400 conciliation proceedings handled by the Federal Social Office. Statistics on court cases involving disability-based discrimination were not available, as the courts

did not record whether plaintiffs had disabilities. Nevertheless, there were examples of cases in which the courts had decided in favour of persons with disabilities on issues concerning barrier-free access. Sign-language interpreters were provided during proceedings whenever necessary, as not doing so would constitute discrimination.

53. While it was true that, under current anti-discrimination legislation, persons who suffered discrimination on the ground of disability were entitled only to financial compensation, a law on the employment of persons with disabilities also established their right to further training or improved working conditions. A task force would soon be established to improve protection for persons with disabilities and reform anti-discrimination legislation on the basis of two recent studies. Cases of alleged multiple discrimination on the ground of disability plus another ground were referred to the Federal Social Office because that body had special knowledge of issues affecting persons with disabilities, and it was believed that it could better take account of their needs. When members of ethnic minorities with disabilities suffered multiple discrimination they received higher compensation than for discrimination on a single ground.

54. The Government was aware of the problems raised by the legal provisions on abortion, and a proposal had been made to hold a wider discussion of the issue with all stakeholders.

55. A 2008 law stipulated that all government websites must be barrier free, and the National Action Plan on Disability included a chapter on accessibility. ORF had established a plan for the gradual increase of barrier-free programming. Currently, audio descriptions were available for 750 hours of television programming, and 60 per cent of programmes on the ORF 1 and ORF 2 stations were subtitled. In response to the criticism that only a few of the measures in the National Action Plan on Disability had been implemented, he wished to assure the Committee that that was not the case and that implementation of the Plan was moving in the right direction.

56. **Ms. Maurer** (Austria) said that the plan for barrier-free access to Land government buildings in Vienna covered a 30-year period in three 10-year stages. It provided for periodic evaluations and established criteria for deciding which buildings should be given priority.

57. **Mr. Filler** (Austria) said that the Ministry of Economy, Family and Youth had established a monitoring board made up of independent experts to oversee the implementation of the best interests of the child. The board was divided into 12 subgroups, including one on the situation of children with disabilities, one on children threatened by discrimination and another on children's participation in affairs concerning them. Austria was currently the only country in the world where the principle of the best interests of the child was enshrined in the Constitution, which referred explicitly to the right of children with disabilities to equal treatment in all areas of life. A federal law on children's issues had been adopted on 1 May 2013, and the Länder had one year to bring their laws into line with that legislation and adjust the services they provided for children. An administrative agreement between the federal Government and the Länder established that harmonized standards must be developed, for example regarding the issue of childcare and preschool education. While the regulation exempting parents of children with disabilities from the requirement to send their children to kindergarten had been invoked only 11 times in the 2011/12 school year, he recognized that it was problematic.

58. **Ms. Fehringer** (Austria) said she recognized that equality between men and women had not been achieved in Austria, and that women with disabilities faced double discrimination. They often held poorly paid jobs and suffered from a lack of education, vocational training and access to information and justice. Nevertheless, some progress had been made. For example, there were many counselling and protection centres for women in

the country, all of which received public funds and training to help them provide barrier-free access if necessary. A major project was under way on access to such centres for women with disabilities, and focus groups comprising both women with disabilities and women without disabilities were searching for solutions. If a woman with disabilities did not wish to travel to a counselling centre, a staff member from the centre would visit her at her home. Special emergency hotlines had also been set up for women with disabilities.

59. The forms used by counselling centres to report on their activities had been amended in 2013 to include a category indicating whether or not the women assisted had disabilities; that measure should help to remedy the lack of data. The National Action Plan on Gender Equality in the Labour Market was aimed at closing the sizeable pay gap between men and women and achieving better work-life balance. It was true that the Plan did not include a special chapter on women with disabilities, but the Government could consider adding such a chapter. An expert in disability law had been included in the Austrian delegation to the Committee on the Elimination of Discrimination against Women in 2013, which showed the State party's commitment to women with disabilities. She recognized that women with disabilities lacked visibility in the media and in leadership positions. Nevertheless, the Public Employment Service had made an important contribution by preparing a brochure on women with disabilities who served as role models.

The meeting rose at 6 p.m.