



**Joint Submission of the Austrian National Council of Disabled Persons (OeAR) and  
the European Disability Forum (EDF) providing  
Answers to the List of Issues in relation to the sixth periodic report of Austria  
to the UN Committee against Torture**

**AUSTRIA**

The Oesterreichische Arbeitsgemeinschaft fuer Rehabilitation (OeAR) is the **umbrella organisation of Austrian disability associations**. It comprises currently 75 member organisations and represents the interests of 400,000 persons with disabilities in Austria. The OeAR is a member of and operates as the Austrian National Council to the European Disability Forum.

This submission provides answers from the Austrian and international disability movement to selected questions of the list of issues (LoI) in relation to the 6<sup>th</sup> periodic report (hereinafter State Report) submitted by the Austrian government to the Secretariat of the Committee against Torture. This submission will cover **Articles 2, 3, 10, 11, 12 and 13** of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The OeAR welcomes the opportunity to contribute to the review process by the Committee against Torture by providing additional information on the CAT implementation with regard to persons with disabilities in Austria.

Austria ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 26 September 2008. It is clear that the human rights standards of the CAT and the CRPD intersect and reinforce each other when it comes to the rights of persons with disabilities. Throughout this submission, CAT provisions will be complemented by CRPD provisions.

**Ad para 7, para 14 and para 23 LoI**

A recent EU comparative study (that was carried out on the basis of a EU Daphne III project) on access to specialised victim support services for **women with disabilities** who have experienced **violence**<sup>1</sup> revealed the existence of multiple barriers in this ambit. The corresponding national report on Austria<sup>2</sup> showed not only “a lack of awareness concerning

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<sup>1</sup> The study was conducted by the Ludwig Boltzmann Institute of Human Rights, queraum.cultural- and social research and Sabine Mandl, Anna Schachner, Claudia Sprenger and Julia Planitzer, October 2014. For more information see <http://women-disabilities-violence.humanrights.at/>. The final short report can be found at [http://www.gla.ac.uk/media/media\\_394354\\_en.pdf](http://www.gla.ac.uk/media/media_394354_en.pdf).

<sup>2</sup> See „Access to specialised victim support services for women with disabilities who have experienced violence“, JUST/2011/DAP/AG/3293, National Report Austria, Ludwig Boltzmann Institute of Human Rights, Julia Planitzer, Claudia Sprenger, supported by Sabine Mandl, online available under [http://women-disabilities-violence.humanrights.at/sites/default/files/reports/austria\\_country\\_report\\_ws\\_1.pdf](http://women-disabilities-violence.humanrights.at/sites/default/files/reports/austria_country_report_ws_1.pdf).

violence against women with disabilities” but also of “concrete measures and adequate funding of measures in order to tackle violence against women with disabilities and its prevention” – a problem that is also reflected in the National Disability Action Plan that “does not formulate any concrete tasks for the government in order to improve the situation”.<sup>3</sup>

The report concludes, inter alia, the following:

“A major obstacle is the general **lack of adequate funding of services for women who experienced violence**. In order to be able to offer support and services comprehensively to all women in Austria, including women with disabilities, more funding and more sustainable funding would be necessary. Organisations having a long experience concerning **counselling** women who experienced violence often do not have the expertise to support women with disabilities comprehensively and often are **not equipped for women with disabilities**. There are not enough places in Austrian shelters which are **barrier-free** and accessible for women with disabilities. Moreover, most services of intervention and counselling centres are not available for women with disabilities. Often very **few information** about services and issues of violence respectively prevention of violence are accessible **in a barrier-free format** for women with disabilities. Finally, in addition to the lack of resources and accessibility, women with disabilities have almost no opportunity to **contribute** meaningfully during the formulation of policies aimed at improving their living situations.”<sup>4</sup>

Although the Austrian legislation on protection against domestic violence is often treated as a good practice example, it does not take the situation of persons with disabilities adequately into account.<sup>5</sup> This is particularly worrying since women with disabilities at all stages of their lives are especially exposed to the dangers of potential acts of violence against their physical integrity. **Women and girls with disabilities**, and particularly those with intellectual disabilities, often become victims of violence and are **twice as much affected from sexual assaults** than women without disabilities<sup>6</sup>. The main reason for that is the **stereotyping** of disabled persons as “asexual” that impedes that persons with disabilities receive adequate **sex education**; another reason is the fact that many persons with disabilities still live in **institutions** that structurally abet violence.<sup>7</sup> Disabled women and girls who are dependent on certain assistance (e.g. for their personal hygiene) or on overall personal assistance in order to conduct their lives, often get into **states of dependence** that are accompanied by sexual violence.

### **Proposed recommendations:**

- Enhance the measures taken to address the heightened risk for **women and girls with disabilities** of becoming victims of **violence, abuse, exploitation** and **harmful practices** in the home, community and institutions and adopt measures to ensure that both **services and information** are **accessible** to victims with disabilities. This includes, inter alia, the introduction of further support mechanisms for women with disabilities who are victims of violence, adequate funding of organisations supporting women with disabilities, data collection and research on violence against women with disabilities and public awareness campaigns in the relevant ambit.

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<sup>3</sup> Ibidem, p. 20.

<sup>4</sup> Ibidem, p. 21.

<sup>5</sup> See also Independent Monitoring Committee for the Implementation of the UN Convention on the Rights of Persons with Disabilities, Report of the Independent Monitoring Committee for the Implementation of the UN Convention on the Rights of Persons with Disabilities in preparation of the dialogue with Austria in September 2013, p. 21.

<sup>6</sup> Cf. Violence Report 2001 of the Federal Ministry for Social Security and Generations, pp. 76. [http://bmwa.cms.apa.at/cms/content/attachments/6/2/5/CH0617/CMS1192461342869/gewaltbericht\\_2002\\_-\\_kurzfassung1.pdf](http://bmwa.cms.apa.at/cms/content/attachments/6/2/5/CH0617/CMS1192461342869/gewaltbericht_2002_-_kurzfassung1.pdf).

<sup>7</sup> According to a survey of 130 women at Austrian disability facilities between the ages of 17 and 69 that was conducted in the mid 1990s, 64 percent of the participants stated that they were victims of sexual violence.

- Improve the **access to justice for women with disabilities**, inter alia, by providing psycho-social and legal assistance during civil proceedings<sup>8</sup> as well as by conducting further investigation into institutional abuse and by foreseeing adequate training for police and other interlocutors on responding to the needs of women with disabilities who are victims of violence.

### **Ad para 10 Lol**

According to oral reports, there is an alarming lack of **sign language interpretation** available in the **reception centres for asylum seekers** that are in the responsibility of the federal government. Hence, the legal counselling services are hardly accessible for deaf asylum seekers. There is also a massive lack of **assistive technologies** in the camps and centres for asylum seekers. According to recent estimates, there are 100 wheelchairs missing merely in the reception centre Traiskirchen. Reportedly, there are major problems in the camps regarding **accessibility** and the provision of **reasonable accommodation for persons with disabilities**. Apart from a few exceptions, NGOs do generally have no access to the premises in Traiskirchen.

In 2014, a **special facility for asylum seekers with care needs** was established in **Gallspach**, Upper Austria. According to information received by the Federal Interior Ministry (that is in charge of this facility) 120 persons are living there. The ÖAR has **no access** to this facility. There is also **no information** available on the access of these persons to any legal counselling services.

#### **Proposed recommendation:**

- Improve the **accessibility** of the **centres** foreseen for **asylum seekers**, inter alia, by providing **reasonable accommodation** for persons with disabilities including **assistive technologies, medical aids, constructional adaptations** and ensure that **free counselling by a trained lawyer** is available to all asylum seekers, including deaf persons and persons encountering other communicative barriers throughout the entire asylum procedure.

### **Ad para 8, para 9 and para 17 Lol**

Since August 29, 2015, the number of refugees in Europe and especially in Austria has increased dramatically. Due to these developments the problems in taking care of people with disabilities have also increased in Austria.

Currently people with disabilities are not adequately supplied in Austria. Until August 2015 **120 people** with disabilities were housed at Traiskirchen. Due to the lack of supply these persons were transferred to **Gallspach** (Upper Austria) in 2014. It is currently not possible to visit this facility and determine the standards.

Since October 2015 **79 persons with disabilities** live at the reception centre **Traiskirchen** (House 4). The people do not receive care from a qualified professional and get no internal access to medical care. The people are cared by residents of the camp, or their family members in the camp.

According to information received by various NGOs that are active in the field on the status of people with disabilities in Austria we can provide the following information:

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<sup>8</sup> Compare „Access to specialised victim support services for women with disabilities who have experienced violence“, JUST/2011/DAP/AG/3293, National Report Austria, Ludwig Boltzmann Institute of Human Rights, Julia Planitzer, Claudia Sprenger, supported by Sabine Mandl, p. 22, online available under [http://women-disabilities-violence.humanrights.at/sites/default/files/reports/austria\\_country\\_report\\_ws\\_1.pdf](http://women-disabilities-violence.humanrights.at/sites/default/files/reports/austria_country_report_ws_1.pdf).

- Currently approximately **25 persons with disabilities arrive in Austria per day**
- Currently persons with disabilities in camps only get **supported by family members and refugees**
- Currently persons with disabilities receive **no adequate access to medical care**
- Currently persons with disabilities get **insufficient access to resources like wheel chairs**
- Currently **no details** of persons with disabilities are **published** by the Ministry of Internal affairs
- Currently persons with disabilities get **no accommodation** when they arrive in Austria

Because of perceptions of the past few weeks, it can be stated that **at least 15 % of the refugees in Austria are people with disabilities**. Due the lack of information it only can be referenced on information from NGOs and as a consequence of this **non-transparent information policy** only perceptions and observations can be explained. There is a lack of an information exchange hub between governmental institutions, NGOs and the civil society in order to effectively and professionally **ensure the future performance** and future work of all involved parties. Increased **social work** is strongly needed comprising all fields and actors. It should be mentioned that also **sexual harassment and abuse** of women within facilities for asylum seekers seem to be a so far underestimated problem.

Austria currently stopped refugee registration in most facilities. Therefore, also a large number of people with and without disabilities are **homeless**. This fact refers not only to refugees travelling through the country but also to refugees applying for asylum in Austria.

#### **Proposed recommendation:**

- Enhance the legal and practical measures taken on all levels in order to ensure a **humane, transparent and adequate process** with regard to the handling of the asylum crisis including the systematic provision of transparent **information**, the allocation of adequate **financial and personal resources**, a **structured cooperation** with and the **access of NGOs** active in the field of disability, social work and care to the centres for asylum seekers, especially in Traiskirchen and Gallsbach.

#### **Ad para 19 Lol**

In Austria all UN treaties have been ratified with a **constitutional reservation**, which means that the treaties are not directly applicable. In order to attain legal validity, its content has to be transformed into national law.

A major challenge in the implementation of human rights treaties in Austria derives from the handling of the **federalist system**. In Austria, the federal government shares its power with the governments of nine provinces, Laender. Problematically, the Laender see not yet enough obligations derived from international human rights treaties. The split competences between the federation and the Laender hinder sustainable changes and improvements, which leads to incoherence and differing levels of rights protection also for persons with disabilities depending on where they live.

The limited **endeavours to develop a harmonized strategy** of the Laender remain without noticeable success. The federal system is regularly used as a justification for not fully implementing the human rights conventions. The attempts by the federal government to overcome this situation are not yet sufficient, resulting in weak and varied levels of protection of disability rights across the Laender.

The legal and institutional **framework against discrimination** in Austria is strongly fragmented and does not ensure equal protection across the country and across the various

discrimination grounds. There are no serious endeavours in order to streamline the **many institutions** responsible for the protection against discrimination and to bring all discrimination grounds to an equal level. There are no plans known in order to improve the **Ombudsman Board's** mandate, it's criteria of appointment and political independence in order to fully comply with the Paris Principles.

**Proposed recommendations:**

- Take effective steps to ensure that the CAT and other human rights instruments are implemented across Austria, including at the Laender level. Augment efforts made by the Federal government to provide **training and awareness raising** to Laender governments and Federal governments representatives as well as to representatives of the Judiciary and especially of the Executive to ensure that the rights and freedoms enshrined in the **CAT** of all persons including persons with disabilities are being upheld in the same way in accordance with the **CRPD** all across Austria.
- Improve the **Ombudsman Board's mandate**, it's criteria of appointment and political independence in order to make it fully comply with the Paris Principles. Clarify and streamline the competences of the various institutions responsible for the protection against discrimination and ensure their equipment with necessary and sustainable resources.

## About the Organisations

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The **European Disability Forum (EDF)** is the independent European umbrella organisation representing 80 million disabled Europeans, to which the OeAR is a full member. EDF is the only European pan-disability platform run by persons with disabilities and their families. Created in 1996 by its member organisations, EDF ensures that decisions concerning persons with disabilities are taken with and by persons with disabilities.

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