

*“Everyone talks about the CRPD, but a lot has not been implemented yet.
Often it is only words on paper.”¹*

Joint Statement

on Children and Young People with Disabilities

on the occasion of the 2nd and 3rd State review

of Austria for the CRPD

compiled by the Austrian National Youth Council and Integration Tirol including statements
by the Youth Advisory Board of the Tyrolean Monitoring Committee

Vienna and Innsbruck, 17th July 2023

¹ Youth Advisory Board of the Tyrolean Monitoring Committee: Keynote at the annual conference of researchers for inclusion at the University of Innsbruck (2022), p. 8 (in German): https://www.tirol.gv.at/fileadmin/themen/gesellschaft-soziales/UN-Konventionen/Jugendbeirat/Keynote_Jugendbeirat_IFO_2022.pdf

Introductory note

The **Austrian National Youth Council**² is the official and legally established representative body of children and youth in Austria. It provides a strong voice for the diverse interests and ideas of young people. **Integration Tirol**³ is an NGO founded by parents of children with disabilities who have been activists for inclusive education ever since the 1990s. Integration Tirol runs a counselling centre for families with children with disabilities and advocates for full inclusion of children with all kinds of disabilities. This statement was jointly elaborated by the Austrian National Youth Council and Integration Tirol. Quotes of the **Youth Advisory Board of the Tyrolean Monitoring Committee**⁴ reflect the voices of young people with disabilities. The Youth Advisory Board discusses and elaborates statements on the implementation of the CRPD based on the lived experience of children and young people with disabilities in Austria.

This joint statement first makes comments to replies in the combined second and third reports submitted by Austria and secondly raises other concerns regarding the implementation of the CRPD for children with disabilities in Austria.

Regarding Reply to paragraph 12, 13 and 14 of the list of issues

The replies to paragraph 12, 13 and 14 of the list of issues reflect the lack of a coordinated and systematic policy approach with regard to children with disabilities. Social services for children with disabilities are a competence of the nine Laender (states) which provided some information for the State report. However, each state uses its own terminology as well as its individual approach to data collection. This makes a comprehensive and meaningful assessment of the provided information impossible. The State report only lists the information submitted by the Laender but completely fails to elaborate a comprehensive overview. This is particularly obvious regarding the reply to paragraph 13 of the list of issues: Although for the first time ever information on the institutionalisation of children with disabilities in Austria was collected and published by the State party, the data provided lack a systematic approach as well as consistency. This not only reflects the lack of an effective coordinating mechanism to implement the convention but also proves the persistent institutionalisation of children with disabilities in Austria. In addition to this it needs to be reported that in several large institutions children with disabilities live together with adults with disabilities. This is the case e.g., in a newly built institution run by the State of Lower Austria⁵, a newly built institution

² See <https://bjv.at/english-information/> (in English) https://www.tirol.gv.at/fileadmin/themen/gesellschaft-soziales/UN-Konventionen/Jugendbeirat/Keynote_Jugendbeirat_IFO_2022.pdf

³ See <https://www.integration-tirol.at/> (in German)

⁴ See <https://www.tirol.gv.at/gesellschaft-soziales/gleichbehandlung-antidiskriminierung/tiroler-monitoringausschuss/jugendbeirat/>

⁵ See <https://www.pfz-perchtoldsdorf.at/>

run by the State of Salzburg⁶, the village for disabled people run by Caritas Salzburg⁷, in the St. Pius Institute run by Caritas in Upper Austria or in the Pius Institute run by a catholic order in Styria.⁸ Such institutions typically include a special school. They are widely accepted by the Austrian society and to a large part financed publicly.

The Youth Advisory Board of the Tyrolean Monitoring Body says: “We want to be able to decide for ourselves. For example: How and with whom we live together. But often that's not possible: Young men and women who need a lot of support often have to live with many other people in residential facilities. They can't choose who they live with. Often, they have to live with a lot of older people. They can't organize their own leisure time because they don't get enough support. We also experience this with the Youth Advisory Board: young people want to come to the meetings, but they are not supported by institutions. Sometimes our parents then help, but that's not okay. Young women and men with disabilities should get enough support so they can participate everywhere.”⁹

Comprehensive and needs-oriented personal assistance for children and young people with disabilities is not provided in any of the nine Laender. A pilot project on Personal Assistance was announced by the Minister for Social Affairs, Health, Care and Consumer Protection and the respective guideline was published in April 2023.¹⁰ However, this guideline excludes children with disabilities up to the age of 15 years and completely excludes children and young people with disabilities living in institutions. Furthermore, there are currently only three of Austria's nine Laender part of the pilot project, which makes a nationwide harmonisation of personal assistance unlikely.

Recommendations:

- As recommended by the UN committee for the Rights of the Child in 2020 elaborate “a coherent strategy on de-institutionalization and prevention of separation of children with disabilities from their families with a clear time frame and a mechanism for its effective implementation and monitoring”¹¹.
- Include children with disabilities and those living in institutions in the pilot-projects for personal assistance

⁶ See <https://www.salzburg.gv.at/gesundheitsseiten/konradinum.aspx>

⁷ See <https://www.caritas-salzburg.at/hilfe-angebote/behinderung-inklusion/caritas-dorf-st-anton>

⁸ See <https://www.pius-institut.at/>

⁹ See Statement of the Youth Advisory Board of the Tyrolean Monitoring Committee for the 3rd Austrian Youth Conference in June 2022, p. 3 (in German) https://www.tirol.gv.at/fileadmin/themen/gesellschaft-soziales/UN-Konventionen/tiroler-monitoring-ausschuss/jugendbeirat/dokumente/stellungnahmen/Stellungnahme_Jugendbeirat_Jugendkonferenz_2022.pdf

¹⁰ See Guideline for the granting of subsidies according to § 33 of the Federal Disability Act for the harmonization of personal assistance published by the Ministry for Social Affairs, Health, Care and Consumer Protection (in German)

https://www.sozialministerium.at/dam/sozialministeriumat/Anlagen/Themen/Soziales/Menschen-mit-Behinderungen/Gesellschaftliche-Teilhabe-von-Menschen-mit-Behinderungen/Richtlinie_Pers%C3%B6nliche_Assistenz.pdf

¹¹ Committee on the Rights of the Child (2020). Concluding observations on the combined fifth and sixth periodic reports of Austria.

- Introduce measures to harmonise personal assistance throughout Austria

Regarding Reply to paragraph 38 of the list of issues

The State report fails to provide the requested information regarding the use of European Union structural funds for supporting the deinstitutionalization of boys and girls with disabilities. According to official complaints to the European Commission which were submitted by the European Network for Independent Living and Independent Living Austria, European Union structural funds were to a large extent used for either building new or renovating existing residential facilities as well as sheltered workshops in Austria. This includes institutions for children with disabilities: In Tyrol, more than three million € (EU funds share € 1.515.921,59) were invested in the renovation of a large special institution for children and young people with disabilities with weekly boarding and long-stay accommodation exclusively for children with disabilities.¹² In Carinthia, a residential facility only for children with disabilities is currently being newly built co-funded by EU structural funds (share € 1 million)¹³.

Recommendation:

- Immediately stop funding new or renovating existing non-inclusive institutions for children with disabilities, including special boarding schools

Further issues:

Regarding Article 5 Equality and non-discrimination

There is a lack of awareness and knowledge on equality and non-discrimination with regard to children with disabilities. Exclusion of mainstream services like kindergarden, the lack of individualised support or segregation into special schools is not considered discriminatory, neither by officials nor by the general population. The concept of reasonable accommodation is only included in the Federal Disability Employment Act, but not in the Federal Disability Equality Act. There is a lack of knowledge and awareness on reasonable accommodation.

Young people with disabilities report discriminatory incidences they experience in every-day life and they describe the effect discriminations has on you: “We experience many barriers, then we feel excluded. Being excluded doesn't feel good. It feels really bad and you feel sad. For example: When

¹² See <https://enil.eu/press-release-disability-groups-file-second-complaint-against-austria-for-eu-funds-misuse/>

¹³ See <https://enil.eu/rights-of-disabled-children-ignored-in-austria-disability-rights-organisations-submit-third-complaint-to-the-european-commission%ef%bf%bc/>

someone shows you that you are not welcome. Or when someone speaks too fast and in very difficult language. Or when people are impatient because someone speaks slowly or unclearly. Or when we are stared at or called stupid because of our disability. Very often there are steps so wheelchair users cannot enter stores or inns.”¹⁴ Children and young people with disabilities should receive information on their rights and where they can find help and support. However, there is no targeted and child-appropriate information on discrimination available. This includes a lack of information on disability related discrimination for professionals who work with children with disabilities.

Recently, the first-class action lawsuit based on the Federal Disability Equality Act was filed against the Ministry of Education by the Litigation Association of NGOs Against Discrimination. It concerned a circular note which regulates personal assistance only for certain groups of children with disabilities in Federal schools. During the court process the Ministry of Education argued that it does not discriminate but the court followed the plaintiff in all respects and found that the Ministry of Education discriminates against children with disabilities.¹⁵ The judgment is final, but so far it is not clear if and how the Ministry of Education will change its regulations.

Recommendations:

- Analyze current law with regard to regulations that possibly discriminate against children with disabilities.
- Fully include the concept of reasonable accommodation into Disability Equality Law
- Elaborate child appropriate information on discrimination on the grounds of disability and carry out comprehensive awareness raising campaigns on disability equality

Regarding Article 8 Awareness-raising

Media, of course, plays a decisive part in the public perception of people with disabilities. The UN CRPD defines media as a central basis for awareness raising and successful inclusion. A recent study on the presence and visibility of people with disabilities and inclusion-related topics in the Austrian media landscape found that children with disabilities are frequently portrayed as objects for the purpose of fundraising at charity events. As a result, the image of young people with disabilities reproduces role stereotypes even more so than that of adults. Especially girls are often being staged as “poor, needy and victims” (p.95) when it comes to traditional media. Furthermore, the study points out that despite

¹⁴ Youth Advisory Board of the Tyrolean Monitoring Committee: Keynote at the annual conference of researchers for inclusion at the University of Innsbruck (2022), p. 8 (in German): https://www.tirol.gv.at/fileadmin/themen/gesellschaft-soziales/UN-Konventionen/Jugendbeirat/Keynote_Jugendbeirat_IFO_2022.pdf

¹⁵ See information on the class action lawsuit (in German): <https://www.klagsverband.at/archives/19287>

an increase of inclusion-related topics in the Austrian media landscape which consider disabilities normal or incidental, it is still very often not mentioned at all or explicitly addressed and frequently remains only a marginal note.¹⁶ The Committee on the Rights of the Child concluded in 2020: “Children with disabilities are at times portrayed in the media as objects of charity rather than rights-holders.”

Recommendations:

- Implement measures to ensure a diverse, non-discriminatory communication concerning children with disabilities
- Portray children with disabilities as rights-holders and not objects of pity for charity events

Regarding Article 16 Freedom from exploitation, violence and abuse

A recent study provides evidence of restriction of freedom and coercive measures carried out against children with disabilities in Austrian institutions: in 2019, a total of 4.411 reports were made throughout Austria of restrictions of freedom carried out on under-18s in special schools or other institutions. These include e.g. preventing a child from leaving an area (locked rooms, restraint, "time-out room," removal of walking aids), preventing a child from leaving the wheelchair or seat, preventing a child from leaving the bed (e.g. straps in the bed, restraining the arms to the bed) and restriction of freedom by omission (e.g. mobilization or mobilization, physiotherapy, regaining the ability to walk, appropriate wheelchair provision, by medication).¹⁷ The report states that “the decentralised system of government in Austria in the areas of disability and child and youth welfare, has so far prevented uniform quality standards for care, training and mandatory child safe-guarding programmes in all institutions.”¹⁸

Sadly, there are frequent reports of individuals and organisations that young people with disabilities are especially affected by violence in the family environment. Again, there is hardly any data collected to confirm these observations. Support measures for families are, therefore, urgently required.

Recommendations:

¹⁶ See MediaAffairs (2023): “Menschen mit Behinderung & Inklusion in österreichischen Massenmedien“ (in German): https://at.sodexo.com/files/live/sites/com-at/files/Home/06-Media/01-Pressmitteilungen/022-Menschen%20mit%20Behinderung/Studie_Menschen%20mit%20Behinderung%20%26%20Inklusion%20in%20o%cc%88sterreichischen%20Massenmedien.pdf

¹⁷ Sax, Helmut (2022). „Einsperren ist keine Lösung! Persönliche Freiheit als Kinderrecht – Alternativen zu Freiheitsentzug und Freiheitsbeschränkungen in Österreich“, p. 71ff (in German): <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2023/04/Studie-Kinderrechte-Einsperren-ist-keine-Loesung-Boltzmann-Institut-2023.pdf>

¹⁸ Sax, Helmut (2022). Locking children up is not a solution! The child right to personal liberty. Alternatives to deprivation of liberty in Austria (summary in English), p. 3: <https://gmr.lbg.ac.at/wp-content/uploads/sites/12/2023/04/Study-child-right-personal-liberty-executive-summary.pdf>

- Elaborate unified and compulsory quality standards for professionals working with children with disabilities
- Ensure that parents and professionals are educated about the right of children with disabilities for freedom of violence
- Elaborate comprehensive and effective strategies for deinstitutionalization and provide needs-based support and assistance schemes for families

Regarding Article 24 Education

Austria's education system still lacks inclusive approaches in most areas. The National Action Plan on Disability for the years 2022-2030 outlines governments measures to further implement the objectives defined in the UN Convention on the Rights of Persons with Disabilities. However, hardly any significant steps towards a more inclusive education system were included. The segregating special school system is maintained and even expanded, people with disabilities still have limited possibilities to access studies and teacher training. A main argument for maintaining special schools is the parents' right to choose if their child with disabilities shall receive inclusive or segregated education. However, this right is not met since there are hardly any alternatives the segregated schools. This regulation contradicts the right for inclusive education of children with disabilities.

There is no entitlement for full inclusion of children with disabilities into kindergarten which are a competence of the Laender and the municipalities. There are many reports from all over Austria that children with disabilities may not attend kindergarten on an equal basis with their non-disabled peers. In many cases their attendance is restricted to two days per week or to one or two hours per day.

In addition, there is still a lack of access to secondary education (level 2) for many adolescents with disabilities. Inclusive education for young people with special educational needs is restricted only to a few selected secondary schools, for most secondary schools there is no legal regulation for inclusive education. Many young people with disabilities are not granted the possibility to attend and complete a voluntary eleventh and twelfth school year.

Furthermore, there is no sufficiently provided personal assistance for all people with disabilities to access schools and a chronic underfunding of inclusive education. In general, but also especially when it comes to education (young) people with disabilities are not included in the planning and implementation of measures.

Recommendations

- Creation of an inclusive education system and extensive inclusion of children and young people with disabilities into the mainstream school system through an effective and uniform law for the entire education system to promote inclusion from kindergarten to tertiary education
- Abolish the parents' right to choose segregated or inclusive education for children with disabilities and ensure the access to inclusive education institutions with the necessary support systems for all children with disabilities
- Gradual abolition of special schools and simultaneous implementation of the inclusive schooling (from nursery to tertiary education sector, with appropriate financial resources, e.g. by means of a plan for inclusive education)
- Improvements in the area of early childhood care, e.g. inclusive kindergarten, as well as inclusive after-school care places.

Regarding Article 25 Health

Even before the pandemic there were structural deficits both in the outpatient and inpatient areas of child and adolescent psychiatry regarding the care provided as well as the provision of psychotherapy. As the HSBC study showed in 2018¹⁹, well before the outbreak of the pandemic, one in four young people already had mental health problems at that time. This need for support was already contrasted back then by a deficient care situation in Austria, with access being unevenly distributed. In 2019, a report by Statistics Austria on "Inpatient Acute Mental Health Care in Austria" clearly showed that the huge demand for hospital beds in psychiatric departments significantly exceeded the actual supply. Around one fifth of the shortfall was accounted for by child and adolescent psychiatry. The lack of services means that children and adolescents are often placed in adult psychiatric institutions. Now, numerous studies paint an even darker picture with negative psychological effects of the pandemic, such as depression, loneliness or anxiety disorders being 80% more frequent among young people than in the general population²⁰. More than half of the students suffer from depressive symptoms, 16% even have suicidal thoughts²¹. Psychiatrists sound the alarm that without rapid action, the current situation could lead to an increase in chronic illnesses.²² Based on our observations, young people with

¹⁹ [Ergebnisse des HBSC-Survey 2018 - Gesundheit und Gesundheitsverhalten von österreichischen Schülerinnen und Schülern \(in German\): https://www.sozialministerium.at/dam/jcr:0f4973f8-dc8b-4227-9e64-c76cec64b343/2018%20HBSC-Bericht%20mit%20Alternativtexten_final.pdf](https://www.sozialministerium.at/dam/jcr:0f4973f8-dc8b-4227-9e64-c76cec64b343/2018%20HBSC-Bericht%20mit%20Alternativtexten_final.pdf)

²⁰ OECD (2021), *Health at a Glance 2021: OECD Indicators*, OECD Publishing, Paris, <https://doi.org/10.1787/ae3016b9-en>.

²¹ Dale, Rachel; Jesser, MMag. Dr. Andrea; O'Rourke, Teresa; Probst, Thomas; Humer, Elke; Pieh, Christoph (2021). Mental health burden of high school students 1.5 years after the beginning of the COVID-19 pandemic in Austria. Advance. Preprint. <https://doi.org/10.31124/advance.17260130.v1>

²² Der Standard (2022): „Kinderpsychiater warnen davor, dass Leiden wegen langer Wartezeiten chronisch werden“ (in German): <https://www.derstandard.at/story/2000137167755/kinderpsychiater-warnen-davor-dass-leiden-wegen-langer-wartezeiten-chronisch-werden>

disabilities are particularly affected by psychological stress. Unfortunately, there is no precise data to support this assumption. There is an urgent need to provide such information.

Recommendation:

- Full assumption of costs by all health insurance funds and sufficient capacities nationwide for psychotherapy, child and adolescent psychiatry and functional therapies
- Expansion of psychosocial support in schools

Regarding Article 27 Work and employment

For young people with disabilities it is extremely difficult and often impossible to receive vocational training and to find a job in the general labour market. Although integrated vocational training is well established and a variety of support measures are available for young people with disabilities, many young people are excluded from regular vocational qualifications. This is mainly due to the lack of an apprenticeship place in a regular company or business. These young people either receive basic vocational skills in programmes to make them fit for education²³ or in institutions for vocational orientation and training specifically for young people with disabilities provided by the nine Laender. These institutions are regulated through state laws for disability services and provide basic working skills, but no officially recognised vocational qualification. Such training institutions are usually only for young people with disabilities and thus may not be considered in line with Art. 24 CRPD.

People with disabilities are often at a very early age, even as children, classified as unfit for work and consequently completely excluded from any measures for vocational training and inclusive employment provided by the Federation. With the classification “unfit for work” they fall under the sole competence of the Laender and typically end up in a sheltered workshop.

The Youth Advisory Board for the Tyrolean Monitoring Body emphasizes the importance of quality vocational training and paid employment: “It is a big problem that already young people with disabilities are classified as unfit for work. Then they can only find occupation in a sheltered workshop and only get a few euros pocket money a month, but no real wages. They get no support for vocational

²³ See information on Education fit (in English): [https://www.neba.at/ausbildungsfittask=callelement&format=raw&item_id=610&element=1bd14ef3-f766-4dad-843b-49437aa92d48&method=download&args\[0\]=0](https://www.neba.at/ausbildungsfittask=callelement&format=raw&item_id=610&element=1bd14ef3-f766-4dad-843b-49437aa92d48&method=download&args[0]=0)

training or for real work. But real work and good vocational training are very important to us. We want to work and earn money. We don't want to be disadvantaged in vocational training and work!”²⁴

In June 2023 the Federal Government announced to change the regulations for the assessment of incapacity for work: As of January 2024, the assessment shall no longer be required for young people under the age of 25. It has to be observed if this new regulation will improve the access of young people with disabilities to the general labour market.

Recommendations:

- Make sure that all young people with disabilities are eligible for the new regulation regarding assessment of incapacity for work including those that are already officially assessed as unfit for work.
- Elaborate strategies to make all vocational high schools (level secondary 2) inclusive for young people with disabilities on an equal basis with others and abolish segregating vocational training programs only for young people with disabilities in the long-run

Regarding Article 29 Participation in political and public life

In Austria, there are hardly any opportunities for young people with disabilities to participate in political and public life. The Tyrolean Monitoring Body has introduced the aforementioned Youth Advisory Board in 2019, which still remains a singular project as other Laender have not followed suit. The Austrian National Youth Council is currently implementing an Inclusion Board open to young people with disabilities as well. However, there is still no national self-representation of children and youth with disabilities and many working groups which do include people with disabilities are either not aimed at young people or do not meaningfully recognize people with disabilities' opinions in further decision processes. It is of paramount importance that all people are given the opportunity to participate in all areas of political and public life not just limited to disability as such. Furthermore, many barriers are still in place when it comes to elections. Due to a lack of respective education many children and young people with disabilities do not receive relevant information on how these democratic structures work. In addition, information on different elections is not always provided in an understandable way and, therefore, excludes certain people such as many children and youth with learning disabilities.

²⁴ See Statement of the Youth Advisory Board of the Tyrolean Monitoring Committee for the 3rd Austrian Youth Conference in June 2022, p. 2 (in German) https://www.tirol.gv.at/fileadmin/themen/gesellschaft-soziales/UN-Konventionen/tiroler-monitoring-ausschuss/jugendbeirat/dokumente/stellungnahmen/Stellungnahme_Jugendbeirat_Jugendkonferenz_2022.pdf

Recommendations:

- Provide structures on a national level to ensure that children and young people can participate in all areas of political and public life
- Make all elections accessible to people with disabilities and provide needs-based information

Regarding Article 31 Statistics and data collection

There is a profound lack of meaningful data on children with disabilities and their living situation in Austria. This is well reflected in the official data on education which is published on a yearly basis by Statistics Austria: The only data provided on children with disabilities are numbers of special educational needs (SEN) pupils which are not even disaggregated by sex. Pupils with disabilities who do not have SEN, which means that they can follow the general curriculum without any special educational support, are invisible in this data. Furthermore, there is no data on pupils with disabilities who attend general high schools or secondary high schools. This is also true for those young people who attend vocational courses or measures provided by the Laender which are not part of the regular education system. These young people drop out of the official education data and are completely invisible. Similarly, data regarding the preschool and kindergarten sector is lacking, too.

Recommendations:

- Comprehensively include children with disabilities in all official data collection and make them fully visible
- Carry out a comprehensive study on the living situation of children with disabilities and their families in Austria