



**Response to the List of Issues prior
to submission of the combined second
and third periodic reports of Austria
(CRPD/C/AUT/QPR/2-3) by the
Austrian Disability Council**

**Submitted on the occasion of the 29th session
(14 August–8 September 2023)
of the UN Committee
on the Rights of Persons with Disabilities**

Vienna, 12 July 2023

The report at hand is mostly based on documents from the Austrian Disability Council, the umbrella organization of over 85 Member Associations representing approximately 1.4 million persons with disabilities in Austria. These documents on a broad range of topics relate to the implementation of the UNCRPD and the life of persons with disabilities in Austria. They were elaborated in participatory formats with persons with disabilities and their organizations. In addition, experts from various fields including persons with disabilities contributed to the civil society report providing their expertise. In the process of preparing the report, the Austrian Disability Council has been supported technically by the International Disability Alliance whose collaboration is acknowledged and very much appreciated.

A. Articles 1-4 (Purpose and general obligations)

Para 1: Disability law

There has been no systematic, comprehensive review of Austrian legislation. A comprehensive harmonization with the UNCRPD would require a broad step-by-step process. There have been no plans or concrete steps to that end since the last review. The National Action Plan on Disability 2022-2030 (NAP 2022-2030)¹ does not contain any corresponding measures. Extremely problematic in this regard is, that the nine regions (Länder) of Austria do not feel bound by the UNCRPD. The responsible person of the region Vienna, for example, repeatedly stated publicly, that only the federal state (and not the regions) ratified the UNCRPD and that it is consequently no concern of his.

Para 2: Disability Assessment

The assessment of disability and the degree of disability is still predominantly based on the medical model of disability. Apart from an exchange between the Ministry of Social Affairs, the Austrian Chamber of Labour and the Austrian Disability Council regarding an adaptation of the Assessment Regulation², no substantial changes have taken place³. Hence, the social aspects of disability do not play a significant role in the regulation.

Due to Austrian federalism, there is no uniform definition of disability⁴. Additionally, the definitions of disability in the Federal Disability Act⁵, the Disability Equality Act⁶ and

¹ <https://www.behindertenrat.at/wp-content/uploads/2023/01/Nationaler-Aktionsplan-NAP-Behinderung-2022-2030.pdf> Last accessed: 21/06/2023.

²The Austrian Regulation for the Grading and Assessment of Disabilities (Einschätzungsverordnung) is the legal basis for the assessment of the degree of disability; it is largely based on the medical model of disability.

"The assessment of the degree of disability is based on an evaluation of the physical, mental, psychological or sensory functional impairments in the form of a medical expert opinion." Section 4 para. 1 Verordnung des Bundesministers für Arbeit, Soziales und Konsumentenschutz betreffend nähere Bestimmungen über die Feststellung des Grades der Behinderung (Einschätzungsverordnung) <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20006879> Last accessed: 03/04/2023.

³cf. Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz (BMSGPK): Evaluierung des Nationalen Aktionsplans Behinderung (2020), p. 175. <https://broschuerenservice.sozialministerium.at/home/Download?publicationId=750> Last accessed: 02/05/2023.

⁴ See: with examples Hofer et al.: Behindertengleichstellungsrecht (2016), p. 50.

⁵cf. section 1 para. 2 Bundes-Behindertengesetz (BBG) <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008713> Last accessed 04/04/2023.

⁶cf. section 3 Bundes-Behindertengleichstellungsgesetz (BGStG) <https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/20004228/BGStG%2c%20Fassung%20vom%2010.02.2023.pdf> Last accessed 10/02/2023.

the Disability Employment Act⁷ need to be adapted further to fully reflect the Convention's understanding of disability. This holds especially true for the interrelationship between impairment and the various barriers that ultimately disable people, as set out in the Convention.

Para 3: Disability Action Plan

In 2019, the Ministry of Social Affairs invited tenders for an evaluation study of the NAP, which was awarded to the University of Vienna. The timeframe of 8 months for the evaluation was very tight because preparations for the new NAP 2022-2030 were already underway. The evaluation found, among other things, that aspects such as the lack of involvement of the federal regions in the preparation and implementation of the Action Plan⁸, insufficient participation processes⁹ (see also the answer to question 4), and insufficient and non-transparent funding¹⁰ impeded the full and effective implementation of the NAP.

There is no precise information on the financial resources allocated for implementation, which are covered by the respective departmental budgets (and not by separate budgets allocated only for the NAP).

It should be mentioned that the new NAP 2022–2030 was an attempt by the Social Ministry to overcome the problems arising from the federal structure. It started a nationwide participative process including all regions and relevant stakeholders, especially DPOs. However, only few ministries followed the rules of participation and excluded civil society in the development of their parts. Especially the ministry of education and the ministry for families and youth stood out by ignorance. The same has to be said for all the regions. Especially Lower Austria blocked numerous relevant measures under regional responsibility that were foreseen in the National Action Plan. Other regions did not officially block the measures, however they refuse the follow up the NAP insisting on making their own regional plans (like Upper Austria, Styria, Salzburg, Carinthia, Tyrol, Vorarlberg and Vienna). Problematically the regional plans so far differ majorly from region to region which again impedes an improvement of the situation of persons with disabilities.

Para 4: Effective participation of persons with disabilities

In Austria, there are no legal provisions on mechanisms to ensure the full and effective participation of persons with disabilities. The Federal Disability Advisory Board, part of the Ministry of Social Affairs, is an important advisory body, but it does not have co-

⁷cf. section 3 Behinderteneinstellungsgesetz (BEinstG)

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008253> Last accessed 04/04/2023.

⁸cf. Evaluierung des Nationalen Aktionsplans Behinderung, p. 20, 232.

⁹cf. *ibid.*, p. 21, 233.

¹⁰cf. *ibid.*, p. 19, 709.

determination powers ¹¹; nor is it largely composed of persons with disabilities. Moreover, the fact that the Federal Disability Advisory Board is part of the Ministry of Social Affairs is contrary to the principle of disability mainstreaming enshrined in the Convention.

Persons with disabilities have been involved in various measures to implement the Convention, but only in very few cases can this be described as full and effective participation.¹² The evaluation of the National Action Plan on Disability 2012-2020 (NAP 2012-2020) showed that there is still much room for improvement in this area. Reasons for this include a lack of understanding of what full and effective participation means and what conditions are necessary for it, as well as a lack of resources for participation processes¹³. During the preparation of the new NAP 2022-2030, only gradual progress has been made on these aspects. There is also a need for improvement regarding capacity building. However, the participatory drafting of the 2nd Protection of Adults Act in 2016 is an example of successful participation.¹⁴ This process, which was accompanied by the Ministry of Justice, can be described as exemplary for Austrian practice in terms of participation, but it has not been replicated so far.

Para 5: Dissemination of the Convention

Austria has published a new translation of the Convention in response to the Committee's criticism during the first State review in 2013, which is commendable. The new translation, which was initiated by the Ministry of Foreign Affairs in the form of a working group, was carried out with the involvement of interest groups of persons with disabilities, the Austrian Monitoring Committee and representatives of the scientific community. However, the final editing was done by the Ministry of Foreign Affairs¹⁵. Positively, the current version now refers to "Inklusion" (inclusion) instead of "Integration" (integration) and to "Barrierefreiheit" (accessibility) instead of "Zugänglichkeit" (focusing on physical access). Less positive, however, is the fact that the word "participation" has not been translated as "Partizipation" (except for Article 33 para. 3) but as "Teilhabe" in the new translation. This means that essential aspects of co-determination, which the convention associates with the term "participation", are lost.

¹¹For the competences of the Federal Disability Advisory Board, see section 8 para. 2 BBG.

¹² The process to reform the former law on guardianship that was conducted by the Ministry of Justice is an outstanding example of good participation. Also the Ministry of Social Affairs made various attempts to fulfil participative processes.

¹³cf. Evaluierung des Nationalen Aktionsplans Behinderung, p. 21.

¹⁴ The process was carried out by the Ministry of Justice about a period of three years with numerous meetings with various stakeholders including organizations of persons with disabilities and self-advocates. The meetings with self-advocates were held in easy language and the draft law translated into easy-to-read materials. The results of the participative meetings were taken into account, and strongly reflected in the final law. This process was a milestone proving that real and effective participation could work in Austria if wanted.

¹⁵ cf. <https://www.bizeps.or.at/warum-aus-oesterreich-eine-korrigierte-deutsche-uebersetzung-der-unbehindertenrechtskonvention-kommt/> Last accessed: 10/02/2023.

Self-advocates were also involved in the translation of the Convention into Easy Language, carried out by the Ministry of Social Affairs. The Easy Read version of the Convention was published in March 2019 and is available on the website of the Ministry of Social Affairs.¹⁶

Recommendations:

Develop a model to establish a standard, mandatory, transparent mode of participation for persons with disabilities and their organizations in ALL policy-making processes that affect them so as to ensure the full and effective participation of persons with disabilities and their organizations in the development and implementation of legislation and policies to implement the Convention on federal and regional level in Austria. In addition to representatives from all departments (disability mainstreaming), persons with disabilities and their organizations, as well as experts on political participation with a scientific/practical background must be included in the development of this model. The diversity and heterogeneity of persons with disabilities must be taken into account. In addition, a dedicated and, above all, sufficient budget should be allocated to this type of participation.

Initiate a process to adapt the Assessment Regulation and other disability assessment tools based on the social model of disability, taking into account the interrelationship between the impairment and the various barriers that can disable people.

Establish or strengthen a nationwide steering body or a similar mechanism with authoritative character including representatives of the federal state, of all regions (Länder) and of persons with disabilities in order to effectively coordinate and harmonize disability standards as well as to elaborate plans to further implement the UNCRPD across Austria.

B. Articles 5-30 (Specific rights)

Article 5

Para 6: Anti-discrimination laws

Although the “Inclusion Package” adopted in 2017 represents an improvement in terms of legal protective instruments in disability equality law,¹⁷ there is still much room for

¹⁶ <https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=214> Last accessed: 21/06/2023.

¹⁷cf. Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz (BMASGK): UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs (2019), p. 17

improvement. For example, in individual lawsuits under the Federal Disability Equality Act, there is still no judicially enforceable claim to the elimination of discrimination or to injunctive relief. A claim to injunctive relief exists only in cases of harassment¹⁸ or in case of representative action against large corporations.¹⁹

Para 7: Legal remedies

There is no information on systematic and comprehensive plans to allow for general claims for injunctive relief or for the removal of barriers under the Federal Disability Equality Act.

Para 8: Multiple discrimination

While the Federal Disability Equality Act requires that multiple discrimination has to be taken into account when determining the amount of compensation for violation of the prohibition of discrimination, there are no systematic measures to prevent multiple discrimination. However, such measures are indispensable when it comes to, among others, women, children, elderly people, migrants and LGBTQI+ persons with disabilities. See also para 9.

The State's response to this question was that, as of the end of 2018, only 20 out of 2.761 concluded arbitration proceedings within the framework of disability equality law concerned multiple discrimination²⁰. This shows that the actual lived experiences of persons with disabilities, which often feature multiple discrimination, are not reflected in arbitration proceedings. This is due to a lack of awareness on multiple discrimination against persons with disabilities in Austria, e.g., information on arbitration is only available in German and the arbitrators do not receive training on discrimination on grounds other than disability. As a result, people affected by multiple discrimination are denied access to arbitration, or the full range of their experiences of discrimination is not reflected in the proceedings.

Moreover, multiple discrimination against persons with disabilities plays only a marginal role in Austrian disability policy. While the first NAP 2012-2020 did not contain a single measure on the issue of multiple discrimination, the new NAP 2022-2030 contains three measures (out of a total of 375).²¹

<https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=728> Last accessed: 04/03/2023.

¹⁸cf. BGStG, section 9 para. 2.

¹⁹cf. *ibid.*, section 13 para. 2.

²⁰cf. UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs, p. 18.

²¹cf. BMSGPK: Nationaler Aktionsplan 2022-2030 (2022)

https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=521&attachmentName=Nationaler_Aktionsplan_Behinderung_2022-2030_pdfUA.pdf Last accessed: 31/03/2023.

Recommendations:

Develop, establish and promote concepts of reasonable accommodation across all areas of life of persons with disabilities and all political domains. Ensure the full and effective participation of persons with disabilities and their organizations in the development process.

Ensure that relevant aspects of heterogeneity are considered in ALL disability-related measures and programs, as described by the term disability mainstreaming.

Article 6

Para 9: Discrimination

The Austrian Disability Council is not aware of any additional programs or concrete steps to prevent multiple and/or intersectional discrimination against women and girls with disabilities since the last State review. Furthermore, there is still no transparent, comprehensive gender perspective in disability legislation and its enforcement, nor a disability perspective in women's legislation and its enforcement.

The Ombud for Equal Treatment, which is a national authority and part of the Federal Chancellery with the task of enforcing the right to equality and equal treatment, is the competent authority on all grounds of discrimination except for disability. In case of multiple discrimination, women with disabilities must file a request for arbitration at the Sozialministeriumservice (Service point of the Ministry of Social Affairs). This arbitration procedure is mandatory and must be carried out at the Sozialministeriumservice before a case can be brought before the civil court. A point of criticism here is that the Sozialministeriumservice does not have any specific expertise on women with disabilities, nor is it trained in a gender-sensitive approach.

Para 10: Employment

No, women with disabilities are not considered as a specific target group by the Austrian Public Employment Service. However, efforts are being made by the Ministry of Social Affairs and the Sozialministeriumservice to promote the inclusion of women and girls with disabilities on the labor market. They are working on a proposal called "Maßnahmen zur Verbesserung der beruflichen Teilhabe von Frauen mit Behinderungen" (Measures to improve participation of women with disabilities in the labor market).

A positive aspect is that the planned workshops for women and girls with disabilities do not only cover work-related topics, but also include empowerment, resilience, violence prevention and health. However, it is problematic that attempts to improve

the work situation of women and girls with disabilities are only made within the existing framework, without any additional staff and hardly without any additional funding.

Para 11: Empowerment

Unfortunately, there has been little development in this area. There are only a few accessible services for women with disabilities in Austria, and most of them are limited to urban areas. Accessible victim protection facilities for women with disabilities and counseling centers specifically for women with disabilities are also rare. NINLIL²², based in Vienna, is one of the few counseling centers for women with disabilities.

Recommendations:

Take comprehensive and systematic measures to ensure the inclusion of a gender perspective in disability legislation and its enforcement, and a disability perspective in women's legislation and its enforcement on a federal and regional level. Ensure the full and effective participation of women and girls with disabilities in the development and implementation of these measures.

Provide sufficient funding for a comprehensive expansion to all Länder of peer-counseling centers for women and girls with disabilities that is not limited to Vienna.

Article 7

Para 12: Community-based services

The Austrian Disability Council has not seen any significant improvements in the provision of community-based rehabilitation and other services in recent years.

Children and adolescents with disabilities cannot live with their families because families do not receive sufficient support to enable children with high support needs to stay with them. There is a lack of individualized, needs-based support. The focus of child and youth welfare should be shifted towards supporting families. Instead of out-of-family placements, there is an urgent need for mobile services and Personal Assistance for children. There is no scientific research on this topic in Austria.

²² <https://www.ninlil.at/> Last accessed: 24/04/2023.

Para 13: Deinstitutionalization

In Austria, data on persons with disabilities in general and children with disabilities in particular is very imprecise.²³ With regard to the situation of children with disabilities not living with their parents, this is due to the fact that the usual statistical surveys²⁴ only include persons over 15 years living in private households²⁵. Therefore, they are not considered in the survey. Detailed data on the financial and other resources invested in the deinstitutionalization of children with disabilities is not available. It can be assumed that the level of institutionalization of children with disabilities remains very high.²⁶

In general, there is a lack of awareness on the institutionalization of children with disabilities in Austria. Institutionalization is closely linked to special education schools, which are often run as residential schools. There is no published data on how many children and adolescents attend residential special education schools at least during the week (and are therefore segregated from both their families and their local communities).

In addition, there are still institutions and group homes exclusively for children and adolescents with disabilities. There is a tendency to disguise the actual size of institutions by dividing large residential buildings into several group homes with smaller groups.

Para 14: Neglect of children rights

Regarding the improvement of rights of children with disabilities, the NAP 2022-2030 is disappointingly lacking. The inclusion of equal treatment of children with disabilities in the constitution is considered positive however mostly of symbolic nature. Children with disabilities continue to experience inequality in many areas of life. Examples include the still predominantly segregated education in special education schools and institutional placement of children with disabilities, as well as the insufficient accessibility of child and youth welfare services.²⁷ Extremely long waiting times for early childhood intervention programs for children with disabilities as well as the chronically underfunded health budget for children and adolescents are massive

²³See Bundesministerium für Arbeit, Soziales und Konsumentenschutz (BMAK): Bericht der Bundesregierung über die Lage der Menschen mit Behinderungen in Österreich (2016), p. 158 & 239ff <https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=428> Last accessed: 13/02/2023; Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 624.

²⁴ National micro-census surveys and EU-SILC Survey on Income and Living Conditions

²⁵cf. *ibid.*, p. 242.

²⁶cf. Unabhängiger Monitoringausschuss zur Umsetzung der UN-Konvention über die Rechte von Menschen mit Behinderungen (Monitoringausschuss): Stellungnahme De-Institutionalisierung (2016), p. 12, 14 https://www.monitoringausschuss.at/download/stellungnahmen/de-institutionalisierung/MA_SN_DeInstitutionalisierung_final.pdf Last accessed: 03/05/2023.

²⁷cf. Monitoringausschuss: Schattenbericht des Unabhängigen Monitoringausschusses zur List of Issues anlässlich der anstehenden Staatenprüfung durch den UN-Fachausschuss (2020), p. 7f. https://www.monitoringausschuss.at/download/berichte/Schattenbericht-zur-List-of-Issues_final.pdf Last accessed: 15/02/2023.

problems. Furthermore, no targeted and, above all, sustainably effective measures can be identified to implement the recommendations²⁸ of the UN Committee on the Rights of the Child in the context of the third/fourth State review.

Recommendations:

Take comprehensive and systematic measures for the deinstitutionalization of children with disabilities among all Länder. To that end, draw upon the UN Committee's Guidelines on Deinstitutionalization²⁹, which aim to support states in the process of deinstitutionalization and to ensure the right of persons with disabilities to live independently and to be included in the community.

Introduce mandatory child protection guidelines in all public and private organizations and institutions working with children and adolescents, including education, focusing on the prevention of violence and discrimination as well as co-determination.

Ensure a significant expansion of nationwide community-based support services, the creation of nationwide services, and the funding of Personal Assistance for children and adolescents with disabilities, regardless of the disability, the degree of disability or the status of a residence permit, beyond federal schools.

Take appropriate measures to establish systematic and permanent structures on federal and regional level to enable children with disabilities to advocate for themselves. Ensure that these structures receive adequate funding and pedagogical support and are established with the full and active participation of persons with disabilities, especially children, and their organizations.

²⁸cf. CRC/C/AUT/CO/3-4, section 45

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsvkrHee8tArE5cEO48WRQ1h00ljH5ZHteHxrVM46rpraZ7ndl8XubFOR97nr3JMbpBzVfWTZ9k84Eo09PjCCLg38KsjVfkhDFyQAUgHOLD0a> Last accessed: 15/02/2023.

In the context of the 5th/6th State review in 2020, the Committee on the Rights of the Child expressed concerns about the continuous lack of a comprehensive deinstitutionalization strategy for children with disabilities, insufficient accessibility of infrastructure that is relevant for children with disabilities, and the lack of awareness about children with disabilities as holders of human rights (cf. CRC/C/AUT/CO/5-6. Section 30 a,b,d).

²⁹ See CRPD/C/5: Guidelines on deinstitutionalization, including in emergencies (2022) <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd5-guidelines-deinstitutionalization-including> Last accessed: 04/04/2023.

Article 8

Para 15: General comments

We have no information on any measures to disseminate the general comments (e.g. bulletins or even campaigns). The NAPs 2012-2020 and 2022-2030 do not contain any such measures either.

Para 16: Abortion

The image that the majority of Austrian society has of persons with disabilities is still heavily influenced by prejudices and stereotypes.³⁰ A direct, causal relation between section 97 para. 1 item 2 of the Austrian Criminal Code and further stigmatization and stereotyping of persons with disabilities cannot be established. Nevertheless, civil society insists that late abortions should no longer be performed based on a potential disability of the unborn child, but rather based on a medico-social indication of the pregnant woman. Following Germany, a medico-social indication describes the risk to the physical and mental health of the woman. Support structures for families with children with disabilities must be expanded so that women (and their families) can form an informed opinion and make an independent decision on a late abortion.

Recommendations:

Take appropriate measures to develop and implement long-term, broad campaigns, including social media campaigns, to raise awareness about persons with disabilities in Austria, with an emphasis on self-empowerment. Ensure that these campaigns are developed with the active and systematic involvement of persons with disabilities and their organizations, and that intersectional perspectives of persons with disabilities, especially of women and girls with disabilities, as well as the widest possible range of disabilities are taken into account.

Implement measures to inform the general public, including persons with disabilities, about the UNCRPD, its content, objectives and the resulting state obligations; disseminate this information in easily understandable formats, including through social media. Moreover, ensure that these campaigns are developed with the active and systematic participation of persons with disabilities and their organizations.

³⁰cf. Nationaler Aktionsplan Behinderung 2022-2030, p. 148.

Article 9

Para 17: Public services

Persons with disabilities still face barriers accessing federal and regional services. Even though the transition period for the Federal Disability Equality Act has expired and thus, a lack of accessibility also constitutes discrimination from a legal point of view, some buildings used by the federal state, regions and municipalities remain inaccessible. Furthermore there is no complete source of information on the level of accessibility of buildings used by the federal state, regions or municipalities, making it impossible for people to inform themselves in advance.

In most regions, administrative decisions are not issued in Easy Language, and there is no accompanying information in Easy Language. This is also not the case at the federal level. Not all public websites fulfill the requirements set out in the Web Content Accessibility Guidelines (WCAG) and the content of the websites varies in terms of comprehensibility. Easy Read versions and video translations into Austrian Sign Language are rarely available on the websites. The provision of translations into Austrian Sign Language is not yet guaranteed across all public services.

Para 18: Public transport

As the State party notes in its response, several measures are being taken to improve the accessibility of public transport. However, a systematic approach is lacking. For example, representatives of persons with disabilities are often consulted too late when new vehicles are purchased. Trying to meet the necessary standard afterwards then requires great (financial) effort.

Sometimes new services (e.g. on-demand shared taxis, community buses, paratransit services) are created without even taking accessibility into account. This was recently the case with the shuttle service of Postbus GmbH.

The misuse of footpaths by e-scooters and bicycles is one of the biggest problems in urban centers. Riding or parking e-scooters on sidewalks blocks the sidewalks and creates tripping hazards for blind people.³¹

A lack of acoustic announcements at public transport stops is a major challenge for blind people. It prevents the safe, equal, accessible and independent use of public transport by blind people.

³¹See ZVR 05/2022: Stolperfalle E-Scooter | KFV - Kuratorium für Verkehrssicherheit https://www.kfv.at/download/zvr-05-2022-stolperfalle-e-scooter/?ind=1652270859367&filename=ZVR_2022-05-189-KFV.pdf&wpdmdl=14315&refresh=64ae7e1d3837c1689157149 Last accessed: 24/04/2023.

Para 19: Public websites

Currently, many government authorities, hospitals, schools, universities, museums and legal courts do not meet the recommended online standards. Persons with disabilities are still almost completely excluded from the web presence of the Austrian police, to name just one example.³²

A report on digital accessibility in Austria found that, on average, only half of the websites fulfil the required criteria of the WCAG.³³ The situation is the same for mobile applications.³⁴

Para 20: Sign language interpretation

There is a massive shortage of sign language interpreters in Austria, as evidenced by the study cited in the State's response.³⁵ To counteract this shortage, the NAP 2022-2030 has stipulated a measure for training more sign language interpreters.³⁶ However, concrete steps in this regard are unknown.

Para 21 (a): Monitoring

There is no information on a general monitoring mechanism and the State's response does not indicate that such a mechanism exists.³⁷ In practice, each administrative body deals with this topic within its own remit without any coordination or common standards.

Para 21 (b): Training

As shown by the State response, universal design has not yet been included in mandatory curricula for professions such as designers, architects, engineers and programmers.³⁸ Hence, there is a lack of knowledge, awareness and practice of universal design.

³²See <https://help.orf.at/stories/3204008/> Last accessed: 24/04/2023.

³³cf. Österreichische Forschungsförderungsgesellschaft mbH: DIGITALES ZUGÄNLICH MACHEN BERICHT ZU ÖSTERREICHS DIGITALER BARRIEREFREIHEIT (2021), p. 24 https://www.ffg.at/sites/default/files/allgemeine_downloads/Barrierefreiheit/BerichtDigitaleBarrierefreiheit_2021.pdf Last accessed: 24/04/2023.

³⁴cf. *ibid.*, p. 36.

³⁵cf. UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs, p. 38f.

³⁶ cf. Nationaler Aktionsplan Behinderung 2022–2030, p. 64.

³⁷cf. *ibid.*, p. 39.

³⁸cf. *ibid.*, p. 41f.

Para 21 (c): Public procurement

According to the Federal Procurement Act, technical specifications are to be defined so as to take into account Design for All criteria, including accessibility for persons with disabilities.³⁹ However, technical specifications are often poorly defined in tenders, resulting in the tendered service not being completely accessible after all. Much more effort is required from the public sector in this area.

Para 22: SDGs on accessibility

The staged plan on traffic and its measures, to which the State party refers in its response to this question, must be considered insufficient for the implementation of target 11.2⁴⁰. Indicators for monitoring goal achievement are completely absent from the staged plan on traffic.⁴¹ The measures also deal almost exclusively with the accessibility of transportation systems, omitting the other aspects of target 11.2.

There are no systematic measures to address target 11.7⁴².

Recommendations:

Update the existing staged plans on traffic and create the staged plans that are still missing.

Ensure that there is a nationwide accessible, inclusive mobility system, created in accordance with unified standards.

Ensure that more training positions for sign language interpreters are created and that there is at least one such training institution in each region.

Include continuous training on accessibility through universal design as part of mandatory curricula for professionals such as architects, designers, engineers and programmers.

³⁹cf. Bundesvergabegesetz (BVerG), section 107 & 275

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20010295> Last accessed: 24/04/2023.

⁴⁰Target 11.2: By 2030, provide access to safe, affordable, accessible and sustainable transport systems for all, improving road safety, notably by expanding public transport, with special attention to the needs of those in vulnerable situations, women, children, persons with disabilities and older persons

<https://www.sdgwatch.at/de/ueber-sdgs/nachhaltige-stadte-und-gemeinden/> Last accessed: 05/04/2023. Regarding target 11.2 the staged traffic plan is lacking coherence between measures and objectives and some of the measures are phrased in very vague terms and their evaluation is one-dimensional.

⁴¹cf. ÖBB: Evaluation Etappenplan Verkehr und Ausblick gemäß §19 Bundes-Behindertengleichstellungs-Gesetz (2016) <https://konzern.oebb.at/dam/jcr:f96fc653-00ca-4b11-99fb-5365b65559c8/EtappenplanBarrierefreiheitAusblick2016.pdf> Last accessed: 05/04/2023

⁴²Target 11.7: By 2030, provide universal access to safe, inclusive and accessible, green and public spaces, particularly for women and children, older persons and persons with disabilities.

Develop and implement binding and harmonized regulations across the Länder that guarantee the construction of exclusively accessible housing irrespectively of the size and the capacity of the building.

Article 11

Para 23: Migrants, asylum seekers and refugees

First, it should be noted that primary care for migrants is regulated at the federal level by the Federal Primary Care Act (Grundversorgungsgesetz), as well as by nine different regional laws on the regional level. According to the regional laws on disability assistance, refugees with disabilities are not entitled to disability assistance benefits. Primary care for refugees is the responsibility of the regions. As a result, the extent and availability of accessible and inclusive services may vary greatly depending on the region. Access to fully accessible and inclusive services is further impeded by the fact that disabilities among refugees are not recorded by default when they are first admitted to Austria, thus especially people whose disabilities are not immediately visible are not treated in conformance with the Convention.⁴³ Therefore, there are also no reliable figures on refugees with disabilities in Austria, which further hinders access to accessible and inclusive services.⁴⁴

Para 24: Disaster risk management

There is no nationwide, systematic description of measures to support persons with disabilities in the event of a disaster in Austria. This is due to the widespread lack of consideration and participation of persons with disabilities in disaster management at the federal, regional and municipal levels.⁴⁵ In addition, disaster management is the responsibility of the regions in Austria.

Inclusive and accessible disaster relief is generally impeded by the lack of data on persons with disabilities in Austria, such as data on the residence or individual needs of persons with disabilities.⁴⁶ Existing disaster information systems are not completely

⁴³cf. Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 199f.; Nationaler Aktionsplan Behinderung 2022-2030, p. 23.

⁴⁴cf. Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 635.

⁴⁵ As an example of the lack of consideration of persons with disabilities by the regions, reference should be made to Salzburg, whose guidelines for disaster management plans do not contain a single statement on persons with disabilities or accessibility, although the purpose of these guidelines is the "uniform design and completeness of disaster management plans" at the district and municipal level. cf. Verordnung der Salzburger Landesregierung vom 15. Juni 1982, mit der Richtlinien für die einheitliche Gestaltung und Vollständigkeit der Katastrophenschutzpläne erlassen werden <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrSbg&Gesetzesnummer=10000401> Last accessed: 10/05/2023

⁴⁶ cf. Nationaler Aktionsplan Behinderung 2022-2030, p. 26.

accessible and information in Easy Language is only partially available.⁴⁷ People requiring Personal Assistance are not addressed in disaster plans and no provisions are made for a possible loss of Personal Assistance.⁴⁸ There are no provisions about protective equipment for persons with disabilities.⁴⁹ In principle, it is positive that an emergency number for deaf people has been set up. However, this measure does not seem to have been well thought out as callers do not receive confirmation that their emergency call has been received.⁵⁰ This suggests that persons with disabilities and their organizations were not or insufficiently involved in the development of this measure, - contrary to the requirements of the Sendai Framework⁵¹. The allocation of Austrian funds for international disaster relief is not linked to criteria on inclusion. Calls for proposals from the Austrian Development Agency lack binding criteria, so that the funded humanitarian aid projects often do not provide the necessary support for persons with disabilities. Therefore, the implementation of the Sendai Framework in Austria's international humanitarian aid is insufficient. The implementation of the twin-track approach still seems insufficient.⁵²

Recommendations:

Establish a centralized reporting system across the regions to ensure standardized and systematic registration of refugees with disabilities to guarantee accessible and inclusive access to the support system for refugees in Austria. In addition to the relevant humanitarian organizations, persons with disabilities and their organizations must be effectively involved in this process.

Initiate concrete and targeted measures to make all existing disaster information systems universally accessible, and relevant information fully available in Easy Language. Strictly ensure the full and effective participation of persons with disabilities and their organizations in the development and implementation of these measures.

⁴⁷ cf. Schattenbericht des Unabhängigen Monitoringausschusses zur List of Issues anlässlich der anstehenden Staatenprüfung durch den UN-Fachausschuss, p. 10.

⁴⁸ Monitoringausschuss Kärnten: Stellungnahme „Klimakrise und Katastrophenschutz“ (2022), p. 7 https://www.monitoringausschuss.at/wp-content/uploads/2023/02/UMA_KMA_SN_Klimakrise_und_Katastrophenschutz_2022_11.pdf Last accessed: 10/05/2023.

⁴⁹cf. *ibid.*

⁵⁰cf. Schattenbericht des Unabhängigen Monitoringausschusses zur List of Issues anlässlich der anstehenden Staatenprüfung durch den UN-Fachausschuss, p. 10.

⁵¹ Sendai Framework for Disaster Risk Reduction 2015 – 2030 (2015), p. 25. https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf Last accessed: 14/02/2023

⁵² Monitoringausschuss: Stellungnahme "Inklusion und Barrierefreiheit in der humanitären Hilfe" (2022), p. 17f. https://www.monitoringausschuss.at/wp-content/uploads/2023/04/UMA_SN_Humanitaere-Hilfe_07_2022.pdf Last accessed: 10/05/2023.

Guarantee that all international humanitarian projects funded by Austria are planned and implemented in an inclusive manner. Also guarantee the implementation of the Sendai Framework in an international context.

Article 12

Para 25: Supported decision-making

Following an exemplary law reform process conducted by the Ministry of Law in a participatory way that has to be described as milestone in Austria, the 2nd Protection of Adults Act⁵³ entered into force on July 1, 2018. It fundamentally reformed the previous law on guardianship. Starting point were the Concluding Observations of the UNCRPD Committee on Austria of 30 September.⁵⁴

The new law replaced the previous guardianship law with the aim of facilitating independent living and to implement the requirements set out in article 12 UNCRPD.

It is based on four pillars of legal representation:

The first pillar is the health care proxy. Every adult can choose a future representative for the uncertain event of losing the capacity to make decisions in the future.

The second pillar is the chosen form of adult representation. People with supposedly limited decision-making capacity decide for themselves if someone represents them in different areas of life and who this person shall be.

The third pillar is the legal adult representation. It is limited for a maximum period of three years and subject to supervision by the courts. Certain relatives can become representatives if supposedly needed for certain decisions or areas of life. The represented person does not need to agree, however, she/he can object.

The fourth pillar is the court-appointed representation. It replaces the former guardianship system. The court can appoint a representative if absolutely needed for particular matters only (never for all areas of life). The represented person does not need to agree, however, he/she can object. The representation ends automatically when the particular matter is dealt with or after three years (whichever is sooner).

According to the new law the state must ensure at all stages that persons who are limited in their decision-making capacity are able to manage their own affairs as independently as possible, with assistance if necessary. If there should be representation, the representative must ensure that the represented person can shape his/her life according to his/her own wishes and ideas. The persons shall be enabled to manage their affairs as independently as possible.

⁵³2. Erwachsenenschutz-Gesetz (ErwSchG)

https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2017_I_59/BGBLA_2017_I_59.html Last accessed: 10/05/2023.

⁵⁴ Cf. CRPD/C/AUT/CO/1, para. 28.

At present, these principles are not sufficiently implemented in practice. The reason for that is that the regions (Länder) are refusing to overtake their responsibility to establish and finance services for supported decision making.

Hence, the new law that had the potential to significantly improve the life of persons with disabilities cannot be implemented in practice.

There is still a massive need for action by the regions, especially in the expansion of services for persons with disabilities, in order to implement the principle of “support before representation”. Especially problematic is the fact that the regions and municipalities do not see themselves as (primary) responsible parties for implementing the obligations set out in the UNCRPD. The responsibility for implementation is generally perceived as a matter of the federal government. Problematically, the regions are in charge of social and disability assistance, however, they do not provide sufficient funding to promote support services for supported decision making and independent living of persons with disabilities.

Not all barriers can be removed via the (federal) Protection of Adults Act. In addition to the regions and municipalities, the federal government is also called upon to continue its efforts to enable the participation of people with limited decision-making capacity, e.g. through legal adjustments to administrative procedural law and access to courts.

Recent experiences with the new law and meetings with relevant institutions (hospital associations, credit institutions, registration and passport authorities, etc.), as well as reports from self-advocates, have shown that awareness on the new law still needs to be raised urgently.

Para 26: Substituted decision-making

As of January 1, 2023, 6,784 adult representations have been set up and registered since July 2018.⁵⁵ The chosen form of adult representation enables persons with disabilities to maintain as much autonomy, self-determination and freedom as possible to make decisions about their own lives. On the other hand, there are 23,376 persons for whom legal adult representation has been established because they are supposedly not (any longer) capable to choose for themselves who will represent them, as the loss of decision-making capacity is deemed as already too advanced.

At the beginning of 2023, there were still 36,414 cases of court-appointed representations (replacing former guardianships), which means that the number of court-appointed representations has decreased by more than a third. Among the former guardianships, there are still approximately 7,000 cases in which a court-appointed representative was selected under the old law and which have to be reevaluated by December 31, 2023 at the latest (according to the new law).

⁵⁵cf. <https://vertretungsnetz.at/aktuell/erwachsenenschutzgesetz-inklusion-nur-auf-dem-papier> Last accessed: 10/05/2023.

Since legal adult representations, like court-appointed representations, are appointed without consultation with the person concerned (who only has the right to appeal, which they often cannot exercise anymore), the number of representations appointed without the independent decision of persons with disabilities has actually increased.

The total number of externally determined – legal and court-appointed – adult representations has increased by about 5% compared to the number of former guardianships. One of the more important reasons for this is that there is still too little support from the federal government, the regions and the municipalities for people with mental illnesses or intellectual disabilities to manage without adult representation. The regions⁵⁶ are responsible for social and disability assistance, however, there is a huge resistance when it comes to providing support for assisted decision making. A strong increase also in social work, peer counselling, assistance, etc. is absolutely crucial. The lack of support for decision making has the consequence that the courts are forced to order representation even for persons who would be able to manage their own affairs if they would only have adequate assistance.

Mostly needed is the full commitment of all responsible parties and stakeholders to the implementation of the UNCRPD and the provision of sufficient funding and resources to create support services that correspond to people's needs.

Para 27: Training

Before the 2nd Protection of Adults Act entered into force, the judicial administration, together with adult protection associations, offered training on the new law and, subsequently, on preserving self-determination to courts, judicial and non-judicial staff as well as administrative staff. The information and training sessions were supplemented by conferences.

Since then, adult protection associations have offered information sessions and training according to their available resources.⁵⁷ The scope is determined by available funding from the Ministry of Justice and would have to be significantly expanded with more funding and staff to make the law more effective in practice.

There is no continuous training throughout Austria for relatives and adult representatives to make the intention of the law more workable for these groups, as self-determination and decision-making (even with support) often still require guidance.

There is an ongoing need for additional training in many areas, which currently does not seem to be sufficiently met. This applies to judges, child and youth welfare workers (regarding parents of children with disabilities), staff of government administrative bodies (regarding adult social work and the obligation to carry out a manuduction, i.e.

⁵⁶ It was reported that the situation in the region Lower Austria is particularly bad.

⁵⁷ cf. Erwachsenenschutzvereinsgesetz (ErwSchVG), § 4

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=1000293>

7 Last accessed: 10/05/2023.

the duty to clarify information), staff at banks and credit institutions, doctors, hospital staff as well as policymakers.

Recommendations:

Guarantee a significant, needs-based, comprehensive expansion of support services for persons with disabilities in all regions so they can make full use of supported decision-making. Take appropriate measures to ensure that the regions and municipalities, as competent authorities on social and disability assistance, assume their responsibilities in this matter.

Intensify training and awareness-raising measures on the new legal situation and its background in all relevant areas, particularly for judges, child and youth welfare workers (regarding parents of children with disabilities), staff of government administrative bodies (regarding adult social work and the obligation to carry out a manuduction), staff at banks and credit institutions, doctors, hospital staff as well as policymakers. Make participation in such training mandatory among the relevant professional groups.

Provide the funding and resources necessary for the implementation of supported decision-making as needed, at both the federal and the regional level.

Article 13

Para 28: Procedural accommodation

Deaf people generally have the right to a sign language interpreter during legal proceedings. However, they do not have the right to choose the interpreter themselves; instead, the interpreter is appointed by the court. In practice, courts only appoint one interpreter. This results in a massive deterioration in quality (more mistakes) during proceedings that last for several hours because the interpreter cannot take breaks, even though this would be necessary to maintain focus while interpreting.

As evident from the State response, not all courthouses are physically accessible.⁵⁸ It should also be noted that it is difficult to verify the data provided by the State due to the fact that the staged plan published on the website of the Ministry of Justice has not been updated since 2016.

Another point of criticism is that there are no court decisions in Easy Language, and only a few regions (e.g. Upper Austria) issue administrative decisions in Easy Language. Furthermore, braille is not offered.

⁵⁸cf. UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs, p. 53f.

Recommendation:

Take appropriate steps to ensure full access to all courthouses and official documents, including the provision of sign language interpretation.

Article 14

Para 29: Legislation

The Involuntary Commitment Act (Unterbringungsgesetz) and the Residential Care Act (Heimaufenthaltsgesetz), offer legal protection in cases of deprivation of liberty. Accordingly, persons with intellectual disabilities and psychosocial disabilities⁵⁹ can only be limited in their personal liberty without their consent if they seriously endanger the lives of themselves or others, and where there is no other alternative. In order to avoid repeated commitment, there is a need for a dynamic expansion of socio-psychiatric support systems based on societal needs. Civil society representatives are not aware of any measures for the systematic and comprehensive evaluation of legal provisions, including changes regarding permissibility criteria, that go beyond amendments to the Involuntary Placement Act⁶⁰.

Para 30: Oviedo Convention

Austria has not adopted the Council of Europe Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine, and therefore has not adopted the Additional Protocol either⁶¹.

Recommendation:

Ensure that psycho-social assistance and support services (including immediate outpatient psychiatric support) are available close to the community nationwide to reduce psychiatric institutionalizations.

⁵⁹ It should be noted at this point that the mentioned laws, especially the Residential Care Act use discriminatory language, talking about "geistig behindert" ('mentally disabled'), cf. Residential Care Act § 4. 2.

⁶⁰See https://www.parlament.gv.at/dokument/XXVII/I/1527/fname_1452595.pdf Last accessed: 24/04/2023

⁶¹See <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=164> Last accessed: 05/04/2023.

Article 15

Para 31: Measures of restraints

On July 1, 2015, the use of net beds was banned by a decree from the Ministry of Health.⁶² According to patient ombud services, fears that the ban on net beds might lead to an increase in the use of restraints have not come true.⁶³ For instance, the number of placements during which belt restraints were used remained unchanged, although net beds had been dispensed without substitution in 14.3% of all placements. However, although the total duration of all restrictions has decreased by 55.3% in comparison with the period prior to July 1, 2015, the use of restraints is still permissible under certain circumstances (see para. 29).

Para 32: Intersex children

There is no general regulation on intersex children and no clear definition in the Assessment Regulation. This is due to the variety of diagnoses and very strong differences in their individual manifestations.

The exact number of surgeries is not known, but it can be assumed that it is decreasing or, if the situation is unclear, that surgery is postponed until the age of consent. Everyday clinical practice shows that there is a lack of specially trained staff and necessary funding. In Austria, care is provided in cooperation with the Kinderklinik (Children's Clinic) and the Medical University of Vienna. There is only one extramural professional counseling center with therapists specialized in variations in gender development. This counseling center is currently funded by donations.

Para 33: CAT

One recommendation issued by the Committee against Torture being relevant for persons with disabilities is about ensuring effective follow-up and implementing the recommendations made by the Ombudsman Board, which are formulated as part of the monitoring activities.⁶⁴ There is no information available about concrete measures taken to implement specific recommendations from the Committee.

The Committee also recommended that adequate medical and psychosocial care be provided for persons with mental illnesses who were deprived of their liberty.⁶⁵ Such measures must be considered urgently necessary due to the state of psychiatric care,

⁶²See <https://www.behindertearbeit.at/wp-content/uploads/bmg-erlass-netzbetten2014.pdf> Last accessed: 13/04/2023.

⁶³ cf. Rappert/Gschaider: Auswirkungen der Abschaffung der Netzbetten in der Wiener Psychiatrie, ÖZPR 2020/64, Heft 4, p. 114f.

⁶⁴cf. CAT/C/AUT/CO/6, para 15

https://www.ecoi.net/en/file/local/1350959/1930_1465394169_q1601237.pdf Last accessed: 02/03/2023.

⁶⁵cf. *ibid.*, para 29a.

which has been described as inadequate by the Ombudsman Board. In prisons, for instance, there is a lack of trained staff, job vacancies remain unfilled and even inmates with acute psychiatric symptoms sometimes do not receive adequate care.⁶⁶

The Federal Law on the Protection of Personal Liberties During Long-term Residential Care (Heimaufenthaltsgesetz), which has been in effect since 2004 and was amended in 2017⁶⁷, describes under which conditions and by whom liberties may be restricted.⁶⁸ We are currently not aware of any additional measures going beyond this law to ensure that coercive measures are used only as a last resort⁶⁹.

Recommendations:

Ensure that standardized de-escalation concepts are implemented in all institutions where measures restricting a person's liberty may be taken.

Ensure mandatory initial and continual training in de-escalation techniques for all staff, or at least for professional groups who have contact with patients or residents, in order to prevent measures that restrict liberty.

Article 16

Para 34: Measures of prevention and protection

The study, „Erfahrungen und Prävention von Gewalt an Menschen mit Behinderungen“⁷⁰ (Experiences and prevention of violence against persons with disabilities) was published in 2019 and provided, for the first time, recent data on violence experienced by persons with disabilities in Austrian institutions.⁷¹ Based on this data, the authors of the study identified both risk and protective factors and proposed measures to prevent violence and to support people affected by violence.⁷² Among other things, the study emphasizes the importance of a gender-sensitive approach for preventing and dealing with the aftermath of experiences of violence, as

⁶⁶cf. Volksanwaltschaft: Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat (2021), p. 133ff. https://volksanwaltschaft.gv.at/downloads/32cb0/pb-45-praeventiv_2021_bf-1.pdf Last accessed: 01/03/2023.

⁶⁷Since 2017, the scope of the Residential Care Act (Heimaufenthaltsgesetz) also includes institutions for children and adolescents; see Änderung des Heimaufenthaltsgesetzes in BGBl. I No. 59/2017 Art. 12 https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2017_I_59/BGBLA_2017_I_59.html Last accessed: 02/03/2023.

⁶⁸cf. Heimaufenthaltsgesetz (HeimAufG), sections 4,5.

⁶⁹cf. CAT/C/AUT/CO/6, para 41.

⁷⁰Mayrhofer et al.: Erfahrungen und Prävention von Gewalt an Menschen mit Behinderungen (2019) <https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=718> Last accessed: 20/02/2023.

⁷¹In response to a parliamentary motion for a resolution adopted unanimously in the National Council in 2014, the Ministry of Social Affairs was tasked with commissioning a scientific study on the topic of violence against and sexual abuse of persons with disabilities in institutions.

⁷²cf. Mayrhofer et al., p. 453-470.

well as the strong need for action regarding sexual violence.⁷³ It also underlines the importance of an organizational culture oriented towards protection against violence in institutions, based on the Convention, on participation, self-determination, empowerment and equal opportunities.⁷⁴ The results of the study have been summarized in a brochure in Easy Language.⁷⁵ There is no comparable study that examines violence experienced by persons with disabilities outside institutions.

There is no information regarding the introduction of documentation standards for early detection of violence against persons with disabilities. While the Austrian Code of Criminal Procedure provides certain procedural rights for particularly vulnerable victims - which may also include persons with disabilities after a case-by-case assessment - these do not meet the State's obligations under article 13 UNCRPD to ensure equal and effective access to justice for persons with disabilities through procedural accommodations.⁷⁶ Persons with disabilities, like persons without disabilities, have the right to redress under the Victims of Crime Act.

Para 35: NPM

Article 16 (3)⁷⁷ is implemented through the work of the Austrian Ombudsman Board. The Ombudsman Board, as a "National Preventive Mechanism", carries out the constitutional mandate to protect human rights. This mandate is based on the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the UNCRPD. There are 6 responsible commissions comprised of experts from various fields including persons with disabilities. Their work includes (mostly unannounced) visits to and the monitoring of institutions and programs for persons with disabilities.⁷⁸ In 2021, they visited 83 institutions throughout Austria.⁷⁹ The Ombudsman Board presents the results of its work as well as corresponding recommendations in an annual report to the National Council and the Federal Council. Regarding the prevention of exploitation, violence and abuse of persons with disabilities, the Ombudsman Board underlines the importance

⁷³cf. *ibid.*, p. 32f.

⁷⁴cf. *ibid.*, p. 34.

⁷⁵See <https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=762> Last accessed: 20/02/2023

⁷⁶cf. Strafprozessordnung (StPO) , section 66a

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002326> Last accessed: 27/02/2023.

⁷⁷ It stipulates that all facilities and programs for persons with disabilities are to be effectively monitored by independent authorities.

⁷⁸On the mandate of the Austrian Ombudsman Board, see: Volksanwaltschaft: Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat (2022), p. 13 and 100f.

https://volksanwaltschaft.gv.at/downloads/32cb0/pb-45-praeventiv_2021_bf-1.pdf Last accessed: 16/02/2023.

⁷⁹cf. *ibid.*, p. 100.

of a comprehensive deinstitutionalization strategy. Persons with disabilities living independently in the community is a significant factor in the prevention of violence.⁸⁰

Recommendations:

Take measures to develop documentation standards for the early detection of violence against persons with disabilities, particularly in institutional settings. To that end, ensure full and effective participation of persons with disabilities and their organizations.

In addition, the Code of Criminal Procedure should be amended to provide that persons with disabilities who have been victims of violence have a legal right to reasonable accommodation to facilitate their effective direct and indirect participation in accordance with Article 13 UNCRPD.

Article 17

Para 36: Forced sterilization and castration

In principle, forced sterilization is prohibited and punishable under the Austrian Criminal Code. In general, the following applies to sterilization: If, in the opinion of a doctor, a patient has the capacity to make a decision in a specific case (the doctor determines this capacity) and has reached the age of 25, only the patient themselves can consent to sterilization after having been informed accordingly.⁸¹ If the patient is deemed incapable of making a decision, sterilization requires the consent of an adult representative (or a health care proxy) whose scope includes this matter.⁸² However, consent to sterilization (or castration) by a representative may be given only if there is otherwise a threat to life or a risk of serious harm to health or severe pain because of permanent physical suffering. In addition to the consent of a representative, authorization by a court is required.⁸³ The procedure is only allowed if sterilization is in the person's own health interest and if there are no other less invasive ways preventing a pregnancy in the specific case. Since July 2018, it has also been mandatory to appoint the locally competent adult protection association to represent the affected person in the proceedings in the event that consent is about to be given by an adult representative. Additionally, the court must appoint two separate and independent experts.

⁸⁰cf. *ibid.*, p. 111ff.; See also Schattenbericht zur List of Issues anlässlich der anstehenden Staatenprüfung durch den UN-Fachausschuss, p. 16.

⁸¹cf. Allgemeines bürgerliches Gesetzbuch, section 252 para. 1

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=1000162>
Last accessed: 22/02/2023.

⁸² cf. *ibid.*, section 253 para. 1.

⁸³cf. *ibid.*, section 255 para. 1 & 2.

It is not yet possible to assess whether the new law and its provisions on consent (the 2nd Protection of Adults Act entered into force in July 2018) helps to prevent unwanted sterilizations. Currently, there is no accessible information on the legal situation regarding sterilization or sterilization procedures and the relevant provisions.

However, the Austrian Disability Council has been notified that sterilizations of women and girls with disabilities are still taking place in Austria, sometimes also without their consent. According to statements, they are often administered contraceptives without their knowledge or consent (especially in institutions), which is not sterilization, but is nevertheless a massive violation of independence and bodily integrity.

Despite the fact that since the 2018 reform, it is mandatory to appoint adult protection associations as legal counsel in all proceedings and that courts always have to authorize sterilizations, there are only very few cases in which adult protection associations are entrusted with this role. This suggests that only a few cases of planned sterilization are actually brought before the courts and that such procedures generally continue to take place without the courts (and the adult protection associations) being consulted. The number of unreported cases is still presumed to be high, especially since there seems to be insufficient information for relatives and doctors and a lack of accessible sexual education measures as well as counseling and referral services for women with disabilities on the topic of sexuality, contraception and self-determination.

Recommendations:

Develop adequate measures, with the effective involvement of persons with disabilities and their organizations, to ensure accessible, age-appropriate and up-to-date (i.e. going beyond heteronormative gender norms) nationwide awareness-raising and education on partnership, love and sexuality for persons with disabilities and their relatives.

Develop binding guidelines for hospitals and care homes on accessible and comprehensive counseling regarding sterilization and its consequences.

Article 19

Para 37: Supportive measures

The State's response does not provide precise and comprehensive information on effective measures taken to ensure adequate funding for persons with disabilities to exercise their right to live independently.⁸⁴ Payments such as the Family Bonus Plus⁸⁵,

⁸⁴cf. UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs, p. 65-69.

⁸⁵The Family Bonus Plus (Familienbonus Plus) is a tax deductible amount to which persons are entitled if they are taxable in Austria and receive family allowance for their child. See <https://www.bmf.gv.at/themen/steuern/arbeitnehmerinnenveranlagung/steuertarif-steuerabsetzbetraege/familienbonus-plus.html> Last accessed: 06/04/2023.

social assistance and long-term care benefits (Pflegegeld) do not constitute such measures.

Especially in terms of Personal Assistance, the lack of standardized regulations across the regions and types of assistance represents a big hindrance to the independence of persons with disabilities. The pilot project on Personal Assistance, which is expected to start in Salzburg, Tyrol and Vorarlberg in the summer of 2023, and the corresponding directive⁸⁶ are welcome. While the standardization of Personal Assistance for work and leisure as well as expanding eligibility to people with learning disabilities and people with mental illnesses are steps in the right direction, there is also still room for improvement. This applies to, among other things, lower and upper age limits.⁸⁷ It would also be important for all regions to be involved in the pilot project in order to achieve standardization throughout the country.

Regarding social assistance, it should be noted that in 2019, a Federal Law on the Principles of Social Assistance (Sozialhilfe-Grundsatzgesetz) was adopted and has replaced the minimum income scheme. Ever since, there has been no minimum level of financial support; instead, maximum rates have been defined. However, these maximum rates are far below the at-risk-of-poverty threshold. Since many persons with disabilities receive social assistance, low social assistance results in widespread poverty among persons with disabilities.

Para 38: European Union Structural and Investment Funds (ESI)

In the State response, there is mostly information about the use ESI on projects for young people who are excluded from the labor market. Use of these funds for Personal Assistance or the deinstitutionalization of children with disabilities is not addressed⁸⁸. This is probably also due to the fact that in both Tyrol⁸⁹ and Upper Austria⁹⁰, funds from the European Agricultural Fund for Rural Development (EAFRD) have been used to renovate and newly build several segregating institutions for persons with disabilities. This is in blatant contradiction to the state obligations to which Austria (and the European Union) is committed or has committed itself as a State party to the UNCRPD,⁹¹ as well as to the priority of social inclusion that Austria itself has set for the

⁸⁶Richtlinie für die Gewährung von Förderungen nach § 33 des Bundesbehindertengesetzes zur Harmonisierung der Persönlichen Assistenz des Bundesministers für Soziales, Gesundheit, Pflege und Konsumentenschutz (2023) https://www.bizeps.or.at/wp-content/uploads/2023/03/Richtlinie_Persoeliche_Assistenz.pdf Last accessed: 03/05/2023.

⁸⁷ cf. *ibid.*, p. 9: Only persons with disabilities between 15 and 65 years are eligible.

⁸⁸cf. UN-Behindertenrechtskonvention Zweiter und dritter Staatenbericht Österreichs, p. 70.

⁸⁹See <https://www.bizeps.or.at/behindertenorganisationen-bringen-wegen-missbraeuchlicher-verwendung-von-eu-mitteln-zweite-beschwerde-gegen-oesterreich-ein/> Last accessed: 06/04/2023.

⁹⁰See <https://www.bizeps.or.at/eu-strukturfonds-werden-in-oesterreich-zur-aussonderung-von-menschen-mit-behinderungen-verwendet/> Last accessed: 06/04/2023.

⁹¹cf. Allgemeine Bemerkung Nr.5 zum selbstbestimmten Leben und Inklusion in die Gesellschaft des UN-Fachausschusses, CRPD/C/GC/5 (2017), p. 9-13 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/328/87/PDF/G1732887.pdf?OpenElement> Last accessed: 12/06/2023.

use of EAFRD funds.⁹² In both these cases of misuse of EU Structural Funds, Independent Living Austria (SLIÖ, Selbstbestimmt Leben Österreich) and the European Network on Independent Living (ENIL) filed an official complaint against Austria with the European Commission.⁹³

Para 39 (a): Lack of data

As shown by the State response, there is neither precise and comprehensive data on the number of residential homes for persons with disabilities in Austria, nor on the number of people living in these homes.

Para 39 (b): Residential homes for older people

There are no exact figures on how many persons with disabilities have been placed in residential homes for older people in Austria. According to reports from the Ombudsman Board, there are, in fact, persons with disabilities under the age of 60 living in nursing homes because institutions for persons with disabilities are usually not equipped for people requiring a high level of care and rarely have continuously employed nursing staff.⁹⁴ Nursing homes, however, follow strategies geared toward very old people and patients with dementia, and do not provide a suitable living environment for significantly younger people. There is an urgent need for the state to obtain reliable data and take appropriate measures to provide adequate care for young people with disabilities, thus enabling them to live independently according to their own wishes.

Recommendations:

Take comprehensive and systematic measures for the deinstitutionalization of persons with disabilities in accordance with General Comment No. 5 on the right to live independently and be included in the community. To that end, draw upon the UN Committee’s Guidelines on Deinstitutionalization⁹⁵, aimed to support states in the process of deinstitutionalization and to ensure the right of persons with disabilities to live independently and be included in the community.

⁹²cf. Factsheet zum österreichischen Programm zur Entwicklung des ländlichen Raums 2014-2022, p. 3 https://agriculture.ec.europa.eu/document/download/2c4ce653-506d-4569-8c93-1cee13c1c6fd_de?filename=rpd-factsheet-austria_de_0.pdf Last accessed: 06/04/2023.

⁹³ cf. footnote 89 and 90.

⁹⁴See Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat (2014), p. 31 https://www.parlament.gv.at/dokument/XXV/III/154/imfname_401787.pdf Last accessed: 19/04/2023.

⁹⁵See CRPD/C/5: Guidelines on deinstitutionalization, including in emergencies (2022) <https://www.ohchr.org/en/documents/legal-standards-and-guidelines/crpd-c5-guidelines-deinstitutionalization-including> Last accessed: 04/04/2023.

Take appropriate measures to ensure that persons with disabilities in general, and young persons with disabilities in particular, are no longer placed in institutions for the elderly.

Article 20

Para 40: Mobility grants

At the federal level, the Ministry of Social Affairs subsidizes the adaptations of cars to “facilitate independent mobility in daily life, particularly on the way to the workplace”⁹⁶. The directive also provides for mobility grants, grants for the purchase of assistance dogs and other types of funding to facilitate mobility. However, all these grants have in common that they are only open to those who are in employment or vocational training. Furthermore, there is no legal entitlement to these benefits; therefore, they cannot be sued for if a person does not receive them. As a result, receiving the grants is also dependent on the availability of financial resources. It is currently impossible to predict the amount that will be budgeted for these grants in the upcoming years.

Six of the regions⁹⁷ also have their own funding tracks for subsidizing adaptations of cars. However, these vary widely - both among themselves compared to federal funding - in terms of grant amounts, eligibility requirements and the types of adaptations subsidized. As a result, there is no equal access to state grants for the adaptation of cars for persons with disabilities.

Recommendation:

Take legislative measures to ensure that persons with disabilities have access to grants for the adaptation of cars, regardless of whether they are in employment/vocational training/seeking employment, and to ensure their personal mobility with the greatest possible level of independence, in accordance with Article 20 UNCRPD.

⁹⁶Richtlinie Mobilitätsförderungen zur Unterstützung der Beruflichen Teilhabe von Menschen mit Behinderungen des Bundesministers für Soziales, Gesundheit, Pflege und Konsumentenschutz (2022), (Directive on mobility subsidies to promote participation in the labor market for persons with disabilities)

https://www.sozialministeriumservice.at/Downloads/13_RL_Mobilitaetsfoerderungen_1.11.2022.pdf

Last accessed: 20/02/2023.

⁹⁷Burgenland, Upper Austria, Salzburg, Styria, Tyrol and Vienna.

Article 24

Para 41: Inclusive education

No detailed information is available on the extent of budgetary resources allocated to provide children with adequate accommodation based on their individual needs and thus enable equal access to (inclusive) education in the mainstream education system. The Revenue-sharing Act (Finanzausgleich) between the federal government and the regions stipulates that a maximum of 2.7% (€ 450 million) of children in compulsory education get additional funding for children with disabilities and so-called special educational⁹⁸ needs from the federal government.⁹⁹ In practice, however, 5.1% of schoolchildren have been attested special educational needs.¹⁰⁰ Expenses for additional staff have to be borne by the regions. In the absence of additional resources, applications for an eleventh and twelfth school year for children with special educational needs are rejected in most cases in Vienna.¹⁰¹

In general, there is a lack of political will to implement a fully inclusive education system in Austria. For example, the inclusive model regions in Tyrol, Styria and Carinthia, which were installed via the NAP 2012-2020, were discontinued by the new government in 2017 and have not been expanded to the rest of Austria. In its 2019 report, the Court of Audit also criticizes the insufficient implementation of inclusive approaches.¹⁰²

However, even under the NAP 2022-2030 and the measures it contains, there will be no inclusive education system in Austria until 2030: Although this is the proclaimed goal of the chapter on education, no dedicated funding is available for any of the 31 measures.¹⁰³ Moreover, inclusion is only mentioned in cases where it is a matter of achieving pre-determined learning content and educational goals of the respective

⁹⁸ The concept ‚special educational needs‘ in Austria is highly questionable. It is a label for children supposedly in need of extra support in order to follow the regular curriculum. The concept is mostly based on the medical model of disability.

⁹⁹cf. Petition Inklusive Bildung Jetzt, 63/PET 1 von 5 vom 27.05.2021 (XXVII. GP) https://www.parlament.gv.at/dokument/XXVII/PET/63/imfname_979935.pdf Last accessed: 12/06/2023 or APS Gewerkschaft Pflichtschullehrerinnen und Pflichtschullehrer, Höchste Belastung in schwierigen Zeiten (03/2021), p. 3.

¹⁰⁰cf. Statistik Austria: Bildung in Zahlen (2022), p. 195 https://www.statistik.at/fileadmin/pages/325/Bildung_in_Zahlen_20_21_Tabellenband.pdf Last accessed: 28/04/2023

¹⁰¹See Österreichischer Behindertenrat: Stellungnahme zur Bürgerinitiative „Recht auf Bildung für ALLE Kinder – Recht auf ein 11. und 12. Schuljahr für Kinder mit Behinderung“ (2023) <https://www.behindertenrat.at/2023/01/stellungnahme-des-oesterreichischen-behindertenrates-zur-buergerinitiative-betreffend-recht-auf-bildung-fuer-alle-kinder-recht-auf-ein-11-und-12-schuljahr-fuer-kinder-mit-behinderung> Last accessed: 28/04/2023

¹⁰²Bericht des Rechnungshofes Inklusiver Unterricht: Was leistet Österreichs Schulsystem? (2019), p. 11f. https://www.rechnungshof.gv.at/rh/home/home/Inklusiver_Unterricht.pdf Last accessed: 28/04/2023

¹⁰³cf. Nationaler Aktionsplan Behinderung 2022–2030, p. 80-95.

types of schools.¹⁰⁴ ¹⁰⁵ As it stands, children and adolescents with learning difficulties and cognitive disabilities developing as a consequence of psychosocial disabilities continue to be largely excluded from education after the mandatory period of schooling. According to a circular sent out by the Ministry of Education, only pupils with a physical disability and a care level higher than 5 receive Personal Assistance when attending a federal school. The first, and so far, only judgment following a class action suit has now legally confirmed that this provision is discriminatory.¹⁰⁶ It remains to be seen how fast and effective this judgment will be implemented by the Ministry of Education.

In Austria, disabilities and so-called special educational needs continue to be assessed based on the medical model of disability. In addition, there are no nationwide standardized guidelines. During the school year 2020/21, 5.1% of all pupils in mandatory education in Austria had special educational needs.¹⁰⁷ 36.4% of these pupils are still being taught at one of the 287 special education schools in Austria or in special education classrooms.¹⁰⁸ Therefore, the inclusion rate, which describes all pupils with special educational needs who are taught in integrative settings, is 63.6% throughout Austria.¹⁰⁹ This rate has barely changed in recent years; there is still no real inclusive education yet.

Civil society representatives are not aware of any measures to promote and encourage the training and recruitment of teachers with disabilities. The information hub klassejob.at, which is run by the Ministry of Education and is also linked to on their website, is meant to encourage those interested in becoming teachers and those considering a career change; it does not address persons with disabilities as a target audience.

Moreover, there is no information on measures taken to implement targets 4.5 and 4 (a) of the Sustainable Development Goals.¹¹⁰

Recommendations:

Take measures to develop a federal action plan on education as well as nine regional action plans on education to create an inclusive education system. Ensure that these plans are developed with the effective participation of persons with disabilities and their organizations and that their development

¹⁰⁴ cf. *ibid.*, p. 84 and 86.

¹⁰⁵ This is in contrast to the human rights-based model of disability, according to which the UNCRPD applies to all persons with disabilities - and not just to those who are fit for mainstreaming. Cf. Theresia Degener: Disability in a human rights context, *Laws* 5, 35 (2016), p. 7.

¹⁰⁶ See https://www.ots.at/presseaussendung/OTS_20230426_OTS0200/bildungsminister-muss-persoенliche-assistenz-in-bundesschulen-auf-alle-kinder-und-jugendlichen-mit-behinderungen-ausweiten Last accessed: 03/05/2023.

¹⁰⁷ cf. Statistik Austria: Bildung in Zahlen (2022), p. 195

¹⁰⁸ cf. *ibid.*

¹⁰⁹ cf. *ibid.*

¹¹⁰ Even after repeated inquiries to the competent authority, the Ministry of Education, no concrete measures could be named by the responsible ministry employees.

is accompanied by scientific research. In this context, ensure that data is collected to allow for an accurate description of the underlying situation and the supervision and documentation of the development process.

Resume work on the inclusive model regions and quickly expand them to the whole of Austria. Also apply the evaluation results and lessons learnt from the Court of Audit's report.¹¹¹

Ensure that no more pupils with disabilities are enrolled in special education schools and at that the same time sufficient inclusive places are available in mainstream schools for students with disabilities in all Länder.

Take appropriate steps to ensure that reasonable accommodations are provided to children with disabilities in order to eliminate discrimination against children with disabilities in education nationwide, so that children with disabilities can exercise their right to education regardless of their place of residence on an equal basis with children without disabilities.

Article 25

In principle, there is a comprehensive health insurance scheme in Austria. However, some persons, such as those working in sheltered employment, are only covered by their family members' insurance with the exception of accident insurance (see comments on Article 27).

Moreover, many healthcare facilities are still not fully accessible (physically, communicatively, socially and economically). It is all the more tragic that the 2017 Health Care Reform Implementation Act (Gesundheitsreformumsetzungsgesetz) eliminated the mandatory provision of accessibility from the general agreements.

Due to the inaccessibility of healthcare facilities, or the long waiting times to see a public health insurance doctor or to receive therapy reimbursed by the public health insurance, some persons with disabilities have to resort to private doctors or pay for therapy out of pocket. Since public health insurance does not come close to reimbursing the full cost of visits to private doctors or therapies paid out of pocket, this is an enormous financial burden. Some do not even have the necessary financial resources and remain untreated for longer periods of time, which often results in the worsening of their illness or disability.

Another issue is that people working in the healthcare sector do not have sufficient training on interacting with persons with disabilities or knowledge about this group. As a result, their needs cannot be adequately met.

There is a particular shortage regarding psychiatric care for adults and especially for children and adolescents due to a lack of resources in healthcare facilities and a lack

¹¹¹ See footnote 102.

of established specialists. There are also massive shortages in extramural areas further exacerbated during the COVID-19 pandemic.

Recommendations:

Take legislative measures to ensure the full accessibility of healthcare facilities.

Take measures to ensure that all people receive community-based, affordable healthcare meeting their needs.

Take measures to increase resources required for psychiatric care, including for children and adolescents nationwide.

Article 26

In Austria, different forms of rehabilitation (medical, professional and social) are provided in a completely fragmented manner by the federal government, the regions, social insurance providers and the Public Employment Service. Rehabilitation services depend on the cause of the disability and the insurance status of the person leading to unequal treatment for equal needs.

Recommendation:

Take legislative action to establish a legal right to timely and comprehensive rehabilitation regardless of the cause of disability or insurance status, and to ensure the best possible provision of assistive devices and mobility aids.

Article 27

Para 42: Supportive measures

First, it should be noted that in Austria, a distinction is made between people who are capable and those who are incapable of working. Capacity or 'incapacity' to work is determined solely based on medical criteria, often immediately after graduation from school. The regions are responsible for persons deemed 'incapable' of working; the federal government is responsible for those who are capable of working.

Regarding the group of persons 'incapable' of working, it is apparent that barely any measures were taken on their behalf since the last State review. They continue to work in sheltered employment, do not receive wages for their labor and have no social insurance of their own (except for accident insurance), which results in increased

poverty in old age. The situation persists even though civil society has been demanding changes for a long time¹¹² and the Ombudsman Board publishing a report in 2019.¹¹³

There are no nationwide, standardized measures regarding transitions to the open labor market. The corresponding measures¹¹⁴ in the NAP 2022-2030 have not yet been tackled.

In terms of persons deemed capable of working, it should be noted that support from the federal government¹¹⁵) is for the most part dependent on an assessment of a certain degree of disability. This excludes people who do not have a state-issued assessment of their degree of disability from these support services.

The measures of the Public Employment Service are not fully accessible to persons with disabilities. As a result, unemployed persons with disabilities participate in qualification measures of the Public Employment Service significantly less often than unemployed persons without disabilities. Apart from higher wage subsidies for women with disabilities under the framework of "InklusionsförderungPlus"¹¹⁶ (Promotion of Inclusion Plus), there are no known measures to address the gender-specific employment imbalance and the wage gap. In general, there are also no specific measures for women with disabilities considering multiple discrimination against this group.

Recommendations:

Repeal the discriminatory criteria that deems young persons with disabilities as either 'capable' or 'incapable' of work. In addition, invest in inclusive education with sufficient support and work trial to ensure that persons with disabilities acquire employable skills.

Take measures to ensure, on the one hand, that people currently in sheltered employment are paid for their labor in accordance with collective

¹¹²See Strategische Vorschläge für einen inklusiven Arbeitsmarkt: Umsetzungsvorschläge zur Verbesserung der Situation von Menschen mit Behinderungen am Arbeitsmarkt in Österreich (2019) https://www.behindertenrat.at/wp-content/uploads/2019/07/strategische-Vorschl%C3%A4ge_2019.pdf Last accessed: 24/04/2023.

¹¹³The report calls for a stop to the categorization of persons with disabilities into capable and 'incapable' of working as well as for social security coverage. See Sonderbericht der Volksanwaltschaft: Keine Chance auf Arbeit – Die Realität von Menschen mit Behinderung (2019), p. 13

<https://volksanwaltschaft.gv.at/downloads/30c01/Sonderbericht%20MmB%202019%2029.11.19.11> Last accessed: 24/04/2023.

¹¹⁴cf. Nationaler Aktionsplan Behinderung 2022-2030 (2022), p. 114f.

¹¹⁵Support from the federal government includes individual funding and support through the Occupational Assistance Network NEBA. Services offered by NEBA (Netzwerk Berufliche Assistenz) comprise youth coaching, production schools, vocational training assistance, job coaching and work assistance.

¹¹⁶Companies that are required to employ persons with disabilities (25 employees or more) receive a 25% supplement when they hire a woman with disabilities, but not when they hire men with disabilities.

agreements and are covered by social insurance, and, on the other hand, to create support systems that enable them to enter the open labor market.

Article 29

Para 43: Accessible voting

No comprehensive measures have been taken to ensure that elections are fully accessible to all persons with disabilities. While, e.g., persons with visual impairments can largely vote in an accessible way with the help of templates¹¹⁷ voting in Austria is still only accessible to a limited extent for most persons with disabilities. There are also still no regulations requiring the parties standing for election to make their election advertising and election programs available in accessible formats.¹¹⁸

A positive development to be highlighted is the 2023 Voting Rights Amendment Act (Wahlrechtsänderungsgesetz).¹¹⁹ However, polling stations do not just have to be reachable in an accessible way, their use must also be accessible; they must have accessible toilets and fully accessible voting booths, and offer extensive support services.¹²⁰ Another point of criticism is the fact that the reform does not contain any measures for the provision of accessible voting information. When it comes to voting information, accessibility encompasses Easy Language, Austrian Sign Language, Austrian Sign Language PLUS (Easy Austrian Sign Language), digital formats and/or braille, to ensure equal access to the right to vote for all.

Recommendations:

Ensure that ALL people, regardless of disability, receive the appropriate support they need to fully exercise their active and passive right to vote in a fully accessible manner on all levels.

¹¹⁷However, some difficulties remain, for instance when casting a preferential vote. cf. Beitrag der Hilfsgemeinschaft der Blinden und Sehschwachen Österreichs zur Landtagswahl in Niederösterreich (2023) <https://www.hilfsgemeinschaft.at/aktuelles/blog/detail/barrierefrei-waehlen> Last accessed: 31/03/2023.

¹¹⁸ Such regulations are urgently needed in order to meet the requirements of the UNCRPD and to enable real participation and co-determination of persons with disabilities in political life. After all, unlimited access to information is the key to exercising the right to vote.

¹¹⁹It will take effect in early 2024 and stipulates, among other things, that all polling stations must be reachable in an accessible way cf. Wahlrechtsänderungsgesetz 2023, section 52 para.6. https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2023_I_7/BGBLA_2023_I_7.pdf Last accessed: 31/03/2023.

¹²⁰cf. Österreichischer Behindertenrat: Stellungnahme zum Wahlrechtsänderungsgesetz 2023 (2023) <https://www.behindertenrat.at/2023/01/stellungnahme-zur-wahlrechtsreform/> Last accessed: 31/03/2023.

Develop measures and programs for political education for persons with disabilities, with the effective participation of persons with disabilities and their organizations - especially persons with learning difficulties.

Establish regulations requiring the parties standing for elections to make their election advertising and election programs available in accessible formats.

C. Articles 31-33 (Specific obligations)

Article 31

Statistical data on persons with disabilities is still very scarce in Austria. This is especially true for data on women with disabilities¹²¹, children with disabilities and persons with disabilities living in institutions.¹²² Reasons for this include a lack of awareness of the lived experiences of persons with disabilities in Austria, as well as insufficient involvement of persons with disabilities in the development and implementation of data collection by the state.¹²³ The Disability Ombud has been calling for improved data material on persons with disabilities, especially in regards to socio-economic aspects, for years.¹²⁴

There is also a need for catching up and improvement in the way the Ministry of Social Affairs awards research contracts. This applies not only to the mere tendering of research projects¹²⁵, but also to the provision of the necessary resources (especially realistic budgetary and time constraints) to ensure that projects can be conducted in a high-quality, serious manner.¹²⁶ There is also definite room for improvement

¹²¹cf. Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 231.

¹²²See the most recent report published by the federal government on the situation of persons with disabilities in Austria: Bericht der Bundesregierung über die Lage der Menschen mit Behinderungen in Österreich (2016), p. 158 & 239ff.

<https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=428> Last accessed: 13/02/2023; Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 242, 624.

¹²³cf. *ibid.*, p. 624.

¹²⁴See the last annual reports by the Disability Ombud (Anwalt für Gleichbehandlungsfragen für Menschen mit Behinderungen), e.g.:

[http://www.behindertenanwalt.gv.at/fileadmin/user_upload/dokumente/Jahresbericht ueber die Taetigkeit der BAW des Jahres 2019.pdf](http://www.behindertenanwalt.gv.at/fileadmin/user_upload/dokumente/Jahresbericht_ueber_die_Taetigkeit_der_BAW_des_Jahres_2019.pdf),

https://www.parlament.gv.at/dokument/XXVII/III/352/imfname_985024.pdf,

https://www.parlament.gv.at/dokument/XXVII/III/742/imfname_1467585.pdf Letzter Zugriff: 22.02.2023.

¹²⁵Cf. the study "Gewalt und sexueller Missbrauch an Menschen mit Behinderungen in Einrichtungen" - Violence Against and Sexual Abuse of Persons with Disabilities in Institutions (response to question 38), which was commissioned in response to parliamentary motion for a resolution filed by an opposition politician. <https://www.parlament.gv.at/gegenstand/XXV/A/94#tab-Uebersicht?selectedStage=100> Last accessed: 27/02/2023.

¹²⁶See the statement by several renowned researchers regarding the tender for the commissioning of the study "„Gewalt und sexueller Missbrauch an Menschen mit Behinderungen in Einrichtungen" <https://www.behindertearbeit.at/wp-content/uploads/offener-brief-studie-gewalt2015.pdf> Last

regarding the active involvement of persons with disabilities¹²⁷ in the planning and implementation of research projects.

Recommendations:

Set up a coordinated and systematic process with the relevant stakeholders to establish a data infrastructure for regular statistics on disability and participation, disaggregated by gender, age, migration background and type of disability. Take adequate provisions to ensure the full and effective participation of persons with disabilities and their organizations in this process.

Provide sufficient and specifically dedicated funding to conduct high-quality research projects on persons with disabilities in Austria. In addition, ensure that persons with disabilities and their organizations are systematically involved in the tendering, planning and implementation of this research.

Article 32

Para 44: SDGs

In general, it should be noted that there is a lack of a national, systematic and coordinated strategy for the implementation of the 2030 Agenda, as stated by the Court of Audit in its 2018 report on the implementation of the 2030 Agenda in Austria. Points of criticism included the lack of a clear political prioritization¹²⁸, the lack of centrally organized, coherent governance of the implementation process¹²⁹, as well as insufficient involvement of and cooperation between the federal government, the regions and the municipalities¹³⁰. Moreover, there was no systematic involvement of representatives from the scientific community, civil society or persons with disabilities themselves during the entire process of implementing the Sustainable Development Goals.¹³¹ In addition, the set of indicators used in Austria to assess goal attainment does not reflect the substantive goals of the 2030 Agenda. For example, for SDG4 (*ensure inclusive and equitable quality education and promote lifelong learning opportunities for all*), there is no indicator covering inclusive education for persons with

[accessed: 27/02/2023](#), or the 8-month timeframe for the evaluation of almost a decade of Austrian disability politics: Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 45.

¹²⁷cf. Evaluierung Nationaler Aktionsplan Behinderung 2012-2020, p. 627.

¹²⁸cf. Bericht des Rechnungshofes: Nachhaltige Entwicklungsziele der Vereinten Nationen, Umsetzung der Agenda 2030 in Österreich (2018), p. 27

https://www.rechnungshof.gv.at/rh/home/home/Entwicklungsziele_Vereinten_Nationen_2030.pdf Last accessed: 15/02/2023

¹²⁹cf. *ibid.*, p. 27.

¹³⁰cf. *ibid.*, p. 28.

¹³¹cf. *ibid.*, p. 34.

disabilities.¹³² The same applies to SDG11 (*make cities and human settlements inclusive, safe, resilient and sustainable*) in relation to accessibility.¹³³

For international cooperation see the response to question 45.

Para 45: Human rights perspective

Contrary to the obligations set out in the Convention, inclusion of persons with disabilities in Austrian development cooperation is still sporadic. Disability is not a mandatory cross-cutting issue; therefore, effective implementation of the twin-track approach is not ensured. Austrian development cooperation is also lacking in terms of a human rights perspective. For example, the Three-Year program on Austrian Development Policy 2019-2021 did not include concrete measures to ensure inclusion of persons with disabilities, to prevent certain groups (e.g. girls with disabilities) from being excluded from funding programs, or to ensure sustainable capacity-building for rights-holders and duty-bearers¹³⁴. It has to be noted that the current Three-Year Program on Austrian Development Policy 2022-2024¹³⁵ has taken a significant leap forward. Inclusion of persons with disabilities is explicitly stipulated, with an emphasis on women and girls with disabilities. It remains to be seen how it will be implemented. However, funding programs still do not require mandatory provisions on inclusion. Additionally, there is no publicly accessible data on inclusion in Austrian development cooperation in accordance with the OECD DAC Disability Marker.

Recommendations:

Introduce a national, systematic and coordinated strategy for the implementation of the 2030 Agenda that provides for centralized, coherent governance of the implementation process for the systematic involvement of the federal government, the regions and the municipalities, as well as representatives of the scientific community, civil society and persons with disabilities during the whole process of implementing the Sustainable Development Goals.

For the implementation of the SDGs and the monitoring thereof in Austria, use the UN indicators or the OHCHR indicators, which connect the UNCRPD and the SDGs.

¹³²Cf. Statistik Austria: Agenda 2030 für nachhaltige Entwicklung in Österreich – SDG-Indikatorenbericht Endbericht, Mai 2020 (2020), p. 53

https://www.statistik.at/fileadmin/publications/Agenda_2030_fuer_nachhaltige_Entwicklung_in_OEsterreich_-_SDG-Indikatorenbericht_Endbericht_2020.pdf Last accessed: 15/02/2023

¹³³cf. *ibid.*, p. 74.

¹³⁴Cf. Dreijahresprogramm der österreichischen Entwicklungspolitik 2019 bis 2021 (2018) https://www.entwicklung.at/fileadmin/user_upload/Dokumente/Publikationen/3_JP/2019-2021_Dreijahresprogramm.pdf Last accessed: 15/02/2023

¹³⁵ Cf. Dreijahresprogramm der österreichischen Entwicklungspolitik 2022-2024 (2022), Link: [Dreijahresprogramm der oesterreichischen Entwicklungspolitik 2022-2024.pdf \(bmeia.gv.at\)](https://www.bmeia.gv.at/fileadmin/user_upload/Dokumente/Publikationen/3_JP/2022-2024_Dreijahresprogramm.pdf)

Make the consistent application of the twin-track approach in all policies, focus areas (e.g. gender) and programs mandatory, in line with the UNCRPD and in accordance with the 2030 Agenda for Sustainable Development, and tie funding programs to mandatory provisions on inclusion.

Make the application of the OECD DAC Disability Marker mandatory, as well as the breakdown of data and statistics on ADA projects by disability.