

## AUSTRIA REVIEW

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### I. Justice System

#### B. Quality of justice

##### *Accessibility of courts (e.g. court/legal fees, legal aid, language)*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities (CRPD) expressed concern about the insufficient availability of qualified sign language interpreters for administrative and court proceedings, the inaccessibility of some administrative and court buildings, a widespread lack of administrative and court decisions in accessible formats and the insufficient accessibility of online administrative and court hearings. The Committee recommended that Austria ensure the availability of qualified sign language interpreters in administrative and court proceedings, expedite the evaluation and development of standards on the accessibility of administrative and court buildings, in close consultation with and the active participation of organizations of persons with disabilities, and implement them expeditiously, provide administrative and court decisions in accessible formats and render online administrative and court hearings accessible. The Committee equally showed concern about shortcomings in the dissemination of government information in accessible formats, such as Plain German, sign language, Easy Read, Braille and tactile, augmentative, and alternative means of communication and the lack of close consultation with and active involvement of organizations of persons with disabilities in the design and review of measures planned or taken to ensure the accessibility of information. The Committee also recommended that Austria ensure the dissemination of information, in particular government information, in accessible formats and technologies, fully implement [Directive 2016/2102](#) of the European Parliament and of the Council on the accessibility of the websites and mobile applications of public sector bodies and render all websites and mobile applications of public sector entities accessible, in line with the European standard for information and communications technology (EN 301 549) and that Austria closely consult with and actively involve organizations of persons with disabilities in the design and review of measures planned or taken to ensure accessibility of information ([CRPD/C/AUT/CO/2-3](#), paras. 33, 34, 51, 52).

##### *Training of justice professionals (including judges, prosecutors, lawyers, court staff, clerks/trainees)*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities noted the entry into force, in July 2018, of the second Protection of Adults Act, and the close consultation with and active involvement of organizations of persons with disabilities in the development thereof. However, it is concerned about the significant remaining elements of substituted decision-making and the high number of established legal adult representations and court-appointed representations, the lack of progress made in the implementation of the law, in particular the lack of community-based services for supported decision-making provided by the Länder, and the lack of awareness about the law in many parts of the State and society. Recalling its general comment No. 1 (2014), the Committee recommends that the State party repeal the remaining elements of substituted decision-making in its laws, substantially strengthen community-based services for supported decision-making, in particular those

within the competencies of the Länder, and implement them comprehensively, and train the employees of all public and private entities who have a role in implementing the law. The Committee also recommends that the State party regularly evaluate the implementation of the second Protection of Adults Act, with a strong emphasis on the measures taken by the Länder. ([CRPD/C/AUT/CO/2-3](#), paras. 31, 32).

*Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities noted with concern: (a) The serious shortcomings in the collection and publication of data on the situation of persons with disabilities across all areas of life, including health, education, employment and the justice system; (b) The lack of disaggregated data, including in relation to the situation of lesbian, gay, bisexual, transgender and intersex persons with disabilities, refugees and stateless persons with disabilities, persons with disabilities in refugee-like situations, persons with disabilities under temporary protection, children with disabilities (in particular concerning education), women and girls with disabilities and persons with disabilities in institutions. The Committee recommended that Austria develop a comprehensive national disability data framework to ensure appropriate, nationally consistent measures for the collection, interpretation and public reporting of disaggregated data on the full range of obligations under the Convention on the Rights of Persons with Disabilities, in particular with regard to lesbian, gay, bisexual, transgender and intersex persons with disabilities, refugees and stateless persons with disabilities, persons with disabilities in refugee-like situations, persons with disabilities under temporary protection, children with disabilities, women and girls with disabilities and persons with disabilities in institutions ([CRPD/C/AUT/CO/2-3](#), paras. 71, 72).

### **C. Efficiency of the justice system**

#### *Length of proceedings*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities was gravely concerned about exceedingly complex and lengthy administrative procedures for access to inclusive education. Recalling its general comment No. 4 (2016), the Committee recommended that the State party render administrative procedures for access to inclusive education fully accessible, easy to navigate and quick ([CRPD/C/AUT/CO/2-3](#), paras. 57, 58).

## **IV. Other institutional issues related to checks and balances**

### **A. The process for preparing and enacting laws**

*Framework, policy and use of impact assessments and evidence based policy-making, stakeholders[1] /public consultations (including consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process both in the preparatory and the parliamentary phase*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities was concerned about: (a) The lack of a systematic and coordinated strategy to implement the

2030 Agenda for Sustainable Development in the international cooperation activities of Austria, with the full involvement of persons with disabilities, in particular with regard to the National Action Plan on Disability for the period 2022–2030, and the lack of systematic involvement of and consultation with organizations of persons with disabilities by the Austrian Development Agency (OEZA); (b) The lack of indicators to assess progress in the attainment of the Sustainable Development Goals, in particular Goals 4, on ensuring inclusive education, and 11, on making cities and settlements inclusive, safe, resilient and sustainable. The Committee thus recommended that Austria: (a) Enact and implement a legal and administrative framework ensuring close consultation with and active involvement of organizations of persons with disabilities in the design, implementation, monitoring and evaluation of international cooperation programs and projects, including those of the Austrian Development Agency; (b) Develop and implement, in close consultation with and the active involvement of organizations of persons with disabilities, indicators to assess progress in the attainment of the Sustainable Development Goals, in particular Goals 4, on ensuring inclusive education, and 11, on making cities and settlements inclusive, safe, resilient and sustainable ([CRPD/C/AUT/CO/2-3](#), paras. 73, 74).

## **B. Independent authorities**

*Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities noted that the Austrian Ombudsman Board (AOB) was reaccredited with A status by the Global Alliance of National Human Rights Institutions; however, it highlights the appraisal by the Subcommittee on Accreditation that the selection and appointment process laid down in the federal constitutional law is not sufficiently broad and transparent and notes that the Subcommittee issued several recommendations. The Committee recommended that the State party address the recommendations issued by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions and strengthen the Austrian Ombudsman Board accordingly ([CRPD/C/AUT/CO/2-3](#), paras. 75, 76).

## **D. The enabling framework for civil society**

*Organisation of financial support for civil society organisations and human rights defenders (e.g. framework to ensure access to funding, and for financial viability, taxation/incentive/donation systems, measures to ensure a fair distribution of funding)*

In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities expressed concern about the lack of support measures, including financial support, for organizations of persons with disabilities, including organizations of persons with intellectual and/or psychosocial disabilities, of women with disabilities and of children with disabilities, to facilitate awareness-raising or information-sharing activities. The Committee thus recommended that the State party provide support, including financial assistance, to organizations of persons with disabilities, including organizations of persons with intellectual and/or psychosocial disabilities, women with disabilities and children with disabilities, to facilitate their awareness-raising or information-sharing activities ([CRPD/C/AUT/CO/2-3](#), paras. 51, 52).

*Rules and practices on the participation of civil society organisations and human rights defenders to the decision-making process*

First, in its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities noted with concern that there are no structured processes based on law, at either the federal or the Länder level, to closely consult with and actively involve organizations of persons with disabilities in the development and implementation of legislation and policies to implement the Convention. Recalling its general comment No. 7 (2018) and its previous recommendations, the Committee recommended that Austria enact legislation, at both the federal and the Länder levels, to institute structured processes to closely consult with and actively involve organizations of persons with disabilities in the development, implementation and monitoring of legislation and policies to implement the Convention ([CRPD/C/AUT/CO/2-3](#), paras. 13, 14).

Second, the Committee on the Rights of Persons with Disabilities was also concerned about the close link between segregated education and institutionalization, owing to the frequent design of special education schools as residential schools, and about the lack of support measures to allow for organizations of children with disabilities to actively participate in public discourse and of prompt provision of early intervention services and individualized support services for children with disabilities and their families. The Committee recommended that Austria, including the Länder, take effective measures in accordance with the human rights model of disability to end the use of segregated institutional settings for children with disabilities in all areas of life, including in education, provide financial and technical support to organizations of children with disabilities to allow for their active participation in public discourse and promptly make available early intervention services and individualized support for children with disabilities and their families. The Committee also recommended that Austria, at the federal level and in particular at the Länder level, institute, in close consultation with and the active participation of organizations of persons with disabilities, awareness-raising programmes on the principles and rights enshrined in the Convention, the obligations incurred by the State party, including the Länder, and the specific importance of the present recommendations. Such programmes should be directed at all persons holding political and judicial office, government employees and medical personnel ([CRPD/C/AUT/CO/2-3](#), paras. 21, 22, 23, 24).

Third, the Committee on the Rights of Persons with Disabilities noted with concern the lack of involvement at the Länder level in disaster management of organizations of persons with disabilities, resulting in a lack of inclusive and accessible communication and services in disaster management plans. Recalling the Sendai Framework for Disaster Risk Reduction 2015–2030 and the Guidelines on the Inclusion of Persons with Disabilities in Humanitarian Action, the Committee recommended that the State party, in particular at the Länder level, closely consult with and actively involve organizations of persons with disabilities in the design and implementation of disaster response and recovery measures ([CRPD/C/AUT/CO/2-3](#) paras. 29, 30).

Fourth, the Committee on the Rights of Persons with Disabilities also noted the expanded protection of victims of domestic violence in the Violence Protection Act 2019, but it is

concerned about the high rates of violence against persons with disabilities, in particular persons with disabilities still in institutions, women and girls with disabilities and persons with intellectual and/or psychosocial disabilities, as evinced by a study of the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, published in 2019, the widespread lack of concepts promoting sexual self-determination, violence-prevention concepts and standard reporting procedures with effective remedies and the shortages of qualified staff in institutions. The Committee recalled its general comment No. 3 (2016) and recommended that the State party, in close consultation with and with the active involvement of organizations of persons with disabilities, in particular women and girls with disabilities, develop measures to address the high rate of violence against persons with disabilities still in institutional settings, promote sexual self-determination, violence prevention and accessible standard reporting procedures with effective remedies, and provide sufficient qualified staff ([CRPD/C/AUT/CO/2-3](#), paras. 41, 42).

Finally, the Committee on the Rights of Persons with Disabilities was concerned about the lack of close consultation with and active involvement of organizations of persons with disabilities in the design and review of measures planned or taken to ensure the accessibility of information. In light of this, the Committee recommended that Austria closely consult with and actively involve organizations of persons with disabilities in the design and review of measures planned or taken to ensure accessibility of information. ([CRPD/C/AUT/CO/2-3](#), paras. 51 (c), 52 (c)).

## **E. Initiatives to foster a rule of law culture**

### *Other*

**Failure to perform a treaty** - In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities noted with great concern the scant attention that the governments of the Länder pay to the Convention. The Committee recommended that the governments of all Länder respect the principle of general international law, codified in article 27 of the Vienna Convention on the Law of Treaties, that a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. It recalls that article 4 (5) of the Convention specifies that the provisions of the Convention extend to all parts of federal states without any limitations or exceptions, and recommends that the governments of all Länder act accordingly ([CRPD/C/AUT/CO/2-3](#), paras. 7, 8).

**Varied legal concepts of disability** - In its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities was also concerned about the wide variety of different legislative approaches taken to implementing the Convention on the Rights of Persons with Disabilities at the federal level and at the level of the Länder, including, but not restricted to, widely differing concepts of disability, which are often based on a medical understanding of disability. In particular, the Committee notes, in this respect, measures 1 to 17 of the National Action Plan on Disability for the period 2022–2030. The Committee, recalling its previous recommendations, encouraged Austria to expeditiously amend and align its laws – at the federal level and at the level of the Länder – and to render them compliant with the human rights model of disability ([CRPD/C/AUT/CO/2-3](#), paras. 9, 10).

**Implementation of the Convention on the Rights of Persons with Disabilities into domestic law** - Taking note of the fulfilment reservation (Erfüllungsvorbehalt) issued by the national council upon ratification of the Convention, and the ensuing dependence of judicially



enforceable individual rights on domestic transformative legislation, in its 2023 concluding observations, the Committee on the Rights of Persons with Disabilities expressed concern about the effective implementation of the Convention and the provision of effective domestic remedies for the purposes of article 2 of the Optional Protocol. The Committee thus recommended that Austria enact domestic legislation providing for the judicial enforcement of all individual rights guaranteed by the Convention, or that Austria rescind its fulfilment reservation ([CRPD/C/AUT/CO/2-3](#), paras. 11, 12).