



**Oesterreichische  
Arbeitsgemeinschaft fuer  
Rehabilitation (OeAR)  
Umbrella Organization  
of the Austrian  
Disability Associations**

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**OESTERREICHISCHE ARBEITSGEMEINSCHAFT  
FUER REHABILITATION (OeAR)  
Umbrella Organization of the Austrian Disability Associations**

**Contribution  
to the Thematic Study of the  
UN High Commissioner on Human Rights  
on Political and Public Participation  
of Persons with Disabilities**

General Remarks

The **Oesterreichische Arbeitsgemeinschaft fuer Rehabilitation (OeAR)** is the umbrella organization of the Austrian disability associations. It comprises 78 member organizations and represents the interests of 400.000 persons with disabilities in Austria. The OeAR furthermore operates as the Austrian National Council to the European Disability Forum (EDF).

The OeAR welcomes the possibility to contribute to the thematic study of the UN High Commissioner on Human Rights by giving information on the situation in Austria. As a first step, the main provisions that are meant to ensure political and public participation of persons with disabilities in Austria are outlined. Then a short overview of criticism in the implementation of the right to participation is given, followed by the responses to the questionnaire of the OHCHR. Finally, an excerpt from the Alternative Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities launched by the OeAR on the occasion of the first State Report Review before the UN Committee in Geneva is added as additional information. The excerpt deals with the implementation of Art 4 (3) and Art 29 CRPD in Austria.

Provisions on political and public participation of persons with disabilities

Art 26 **Austrian Constitution (B-VG)** guarantees universal and equal suffrage. Since the repealing of Sec 24 Elections to the Parliament Act (NRWO) persons with legal

guardianship are no longer excluded from voting. The right to vote and to be elected can only be limited in case of certain criminal convictions.<sup>1</sup>

In theory, public participation (in general) is guaranteed by the so called “**Standards of Public Participation**”.<sup>2</sup> These standards have been adopted by the Austrian Council of Ministers on 2 July 2008. They are recommended to be applied by the Austrian federal administration in order to offer the public (those concerned and/or interested) an opportunity to participate in the preparation of policies, plans, programmes and legal instruments in an effective and efficient manner.<sup>3</sup> According to the standards, “all target groups are addressed in a balanced way. The participation process is organised barrier-free.”<sup>4</sup> The standards are not legally binding.

With the ratification of the **UN Convention on the Rights of Persons with Disabilities (CRPD)** in October 2008 Austria has overtaken the obligation to implement, inter alia, the right to political and public participation of persons with disabilities according to Art 29 CRPD as well as the right to participate in legislation, policies and decision-making processes concerning issues relating to persons with disabilities according to Art 4 para 3 CRPD.

## Insufficient implementation

Despite the existence of the outlined provisions, the right to participation of persons with disabilities has not yet been fully realized in Austria.

The insufficient implementation of Art 29 CRPD as well as of Art 4 (3) CRPD has been criticized, inter alia, by the Austrian **Independent Monitoring Committee for the Implementation of the UN Convention on the Rights of Persons with disabilities** in its statement on participation of 19<sup>th</sup> April 2010.<sup>5</sup>

Furthermore, Austria has been recommended several times in the process of the **Universal Periodic Review** to strengthen its cooperation with civil society.<sup>6</sup>

The **OeAR** describes the implementation of Art 4 para 3 and Art 29 CRPD in its **Alternative Report on the implementation of the UN CRPD** and gives related recommendations.<sup>7</sup> The content of the report is going to be reflected in the following responses to the questionnaire of the OHCHR.

## Questionnaire

### **1. Are you aware of any restrictions on the right of persons with disabilities to vote and be elected? If so, what are those restrictions?**

<sup>1</sup> Cf. Art 26 para 5 Austrian Constitution (B-VG) and Sec 22 Elections to the Parliament Act (NRWO).

<sup>2</sup> Cf. [http://www.partizipation.at/standards\\_oeb.html](http://www.partizipation.at/standards_oeb.html).

<sup>3</sup> Cf. Standards of Public Participation, available under [http://www.partizipation.at/fileadmin/media\\_data/Downloads/Standards\\_OeB/oeb\\_standards\\_engl\\_finale\\_web.pdf](http://www.partizipation.at/fileadmin/media_data/Downloads/Standards_OeB/oeb_standards_engl_finale_web.pdf). p. 6.

<sup>4</sup> Cf. Standards of Public Participation, available under [http://www.partizipation.at/fileadmin/media\\_data/Downloads/Standards\\_OeB/oeb\\_standards\\_engl\\_finale\\_web.pdf](http://www.partizipation.at/fileadmin/media_data/Downloads/Standards_OeB/oeb_standards_engl_finale_web.pdf). p. 6.

<sup>5</sup> Cf. Stellungnahme des Unabhängigen Monitoringausschusses zur Umsetzung der UN-Konvention über die Rechte von Menschen mit Behinderungen, Verpflichtung zur Partizipation von Menschen mit Behinderungen, available in German under [http://www.monitoringausschuss.at/cms/monitoringausschuss/attachments/2/8/6/CH0914/CMS1276526308845/partizipation\\_vom\\_19\\_04.2010.doc](http://www.monitoringausschuss.at/cms/monitoringausschuss/attachments/2/8/6/CH0914/CMS1276526308845/partizipation_vom_19_04.2010.doc).

<sup>6</sup> Austria was recommended, inter alia, to “take advantage of the substantial expertise that civil society organizations represent, and consult regularly with them in human rights related policy document (Norway)” as well as to “continue its UPR consultation process in cooperation with civil society organizations following the adoption of the UPR reports (Norway)”; “facilitate the active involvement of civil society stakeholders, including human rights non governmental organizations in the follow up to this review (Portugal)”.

<sup>7</sup> The report is currently available only in German under [http://www.oear.or.at/bildbibliothek/pdf-dateien/un-konvention/Behindertenrechtskonvention\\_Bericht.pdf](http://www.oear.or.at/bildbibliothek/pdf-dateien/un-konvention/Behindertenrechtskonvention_Bericht.pdf), the English version is in progress.

As already outlined above, the right to vote and to be elected can only be limited in case of certain criminal convictions. Art 26 Austrian Constitution stipulates universal and equal suffrage.

## **2. Are you aware of any good practices to ensure that persons with disabilities participate in political and public life on an equal basis with others?**

There are some practices in order to facilitate political and public participation of persons with disabilities; however, far more (and foremost multi-pronged) measures would be necessary in order to effectively influence the status quo of low participation.

All political parties that are represented in the Austrian parliament have disability spokes persons - each of them (except for one) having a disability. The disability spokes persons are members of parliament.

Since the Electoral Rights Amendment Act 2010 there is the possibility that voting cards are being sent ex officio to persons with disabilities before elections.

Persons with strongly reduced mobility who can not visit polling stations (often persons in hospitals or in-patient facilities) may vote via so called „flying electoral commissions“. After having applied for a voting card, these persons are being visited by the commissions in order to give their vote.

Blind and visually impaired people may use tactile voting devices. Templates with Braille characters are available.

If required, accompanying persons can be taken into the election booths for assistance. This applies to persons with physical impairments as well as to persons with learning difficulties.

Unfortunately, not many polling stations are accessible. Since the entry into force of the Electoral Law Reform in 1998 (Wahlrechtsnovelle, BGBl. I Nr. 161/1998) every municipality (and in Vienna every district) has to offer - where technically feasible - at least one physically barrier-free polling station. Obviously, this can not be considered a satisfying solution.

## **3. Are you aware of any good practices:**

### **a) to ensure close and active consultation with persons with disabilities and their representative organizations in decision-making processes?**

It is necessary to distinguish between consultative and cooperative participation. In decision making processes, Austrian DPOs generally do not have a co-decision; their status is merely of consultative nature.

One example is the Federal Disability Advisory Board. It is located within the Ministry of Labour, Social Affairs and Consumer Protection and has an advisory function in all issues regarding disability policies. A quarter of the members of the Federal Disability Advisory Board are representatives of OeAR member organizations.

The OeAR is furthermore represented (on a consultative basis) in various committees in the different ministries (for example, the National Governing Committee on Active Aging, the Committee on Regional Development, the Europe 2020 Governance and Poverty Platform, etc.).

In the boards of the social security institutions, the OeAR overtakes not only an advisory function but is partly involved (and has a vote) in decision-making processes as well (for example, in the Rehabilitation Committee).

Apart from that, the OeAR is systematically involved in the process of preparing and reforming legislation. It has to be informed and consulted at the preparatory stage by all ministries and may make statements on the new legislation. Before issuing a statement, the OeAR contacts all its member organizations in order to reach a consensual opinion. This way, all official OeAR statements are approved by 78 member organizations and hence, can be considered representative. Of course, the statements have a merely consultative status.

The OeAR was also strongly involved in the legislative process with regard to the Federal Disability Equality Act. It was also consulted in the preparation of the National Action Plan on Disability (which is supposed to be a tool to implement the CRPD and is going to be published within the following months).

**b) to promote participation in non-governmental organizations and associations?**

The major part of the OeAR member organizations are self advocates associations of various groups of persons with disabilities. In these organizations many leading functions are occupied by persons with disabilities. This holds also true for the OeAR itself.

The premises of the OeAR are available to self advocates who are not members of the OeAR as well. Furthermore, a platform for DPOs and interested persons and/or persons with disabilities is organized by the OeAR. The platform handles all topics related to the CRPD and made a decisive contribution in drawing up the OeAR Alternative Report.

**4. Do you have any information on ways that persons with disabilities and their representative organizations are involved in monitoring the Convention? If so, please provide examples.**

The **Independent Monitoring Committee for the Implementation of the UN Convention on the Rights of Persons with Disabilities** (that was established in 2008 in order to implement Art 33 CRPD) monitors the implementation of the CRPD at the federal level. All members of the committee are proposed by the OeAR and (on this basis) appointed by the Minister of Labour, Social Affairs and Consumer Protection. The committee is not subject to directives and consists of four representatives of organisations of persons with disabilities, a representative of an NGO from the field of human rights, a representative of an NGO from the field of development cooperation and a representative of academia. Furthermore, one representative of the Ministry of Labour, Social Affairs and Consumer Protection and a representative of another ministry (depending on the individual case) take part with an advisory vote.

The involvement of persons with disabilities and their representative organizations is safeguarded by the important role of the OeAR in the process of nomination of the committee members (and their stand-ins) as already explained. Furthermore, the rules of procedure of the committee foresee periodically public meetings.

Also the **OeAR** is involved in monitoring the implementation of the CRPD by drawing up an Alternative Report on the Implementation of the CRPD on the occasion of the first State Report Review before the UN Committee on the Rights of Persons with Disabilities which is going to be sent to Geneva.

A further – indirect – contribution of the OeAR to the monitoring of the CRPD can be seen in its involvement in the consultation processes prior to the installation of new laws. In these processes the OeAR can make statements and may criticize provisions

that are inconsistent with the CRPD or discriminate persons with disabilities in any other way.

**5. Are statistics and data collected in relation to enjoyment of the political rights of persons with disabilities? Please provide relevant statistics and data if possible.**

No data/statistics known.

**6. Is your organization involved in international cooperation programmes related to promoting political rights of persons with disabilities? Please describe the ways the programmes are inclusive of and accessible to persons with disabilities.**

No. However, the OeAR is collaborating with NGOs from the field of international development cooperation and is a member of the Working Group on Disability and Development led by the NGO Light for the World. The Working Group furthermore consists of representatives of other disability organizations and self advocates.

**7. Do you have any additional information you wish to provide?**

The OeAR describes the implementation of Art 4 para 3 and Art 29 CRPD in its Alternative Report on the implementation of the UN CRPD and gives related recommendations. Here a copy of the correlating excerpts from the Alternative Report of the OeAR:<sup>8</sup>

**Excerpt from the OeAR - Alternative Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities**

**Article 4 para 3 General Obligations/Participation**

**1. Participation in Legal and Political Measures**

Persons with disabilities are rarely included into the planning processes of measures that are relevant to them from the very beginning or rather, their suggestions are often dismissed at the end with reference to a lack of financial resources. Thus, representatives of persons with disabilities have, for instance, initially been included into the first phase of the drafting-process of the Federal Disability Equality Act but in the final version of the respective bill, the recommendations and ideas of persons with disabilities have been largely ignored. This clearly indicates that there are indeed efforts to include persons with disabilities into the legislation but ultimately, the existing power structures, political strategies or economic interests continue to retain precedence in terms of the final legal text.

Even at the provincial level, such as in Styria, there have been repeated examples of persistent refusal to include persons with disabilities in policy measures. It is not even assured that the provinces (Laender) or rather, the municipalities possess any knowledge about the existence of the CRPD or that they feel concerned about implementing t. At

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<sup>8</sup> The excerpt refers at some points to other topics of the report that are not quoted here. The entire report will soon be available in English on the homepage of the OeAR ([www.oeaar.or.at](http://www.oeaar.or.at)).

least in some provinces, there are still notions that the CRPD does not concern the province level directly and hence, that there is no need for action.

## 2. Recommendations:

- **Mainstreaming** of disability in all new laws and programs at federal, provincial and municipal level
- **Inclusion** and consultation of persons with disabilities and their representatives during the elaboration of all laws and programs concerning persons with disabilities (according to the government decision of 2008 on “Standards for Public Participation”)<sup>9</sup>

## Article 29 Participation in Political and Public Life

### 3. 1. Exercising the Passive Right to Vote

Persons with disabilities are extremely underrepresented in political offices in Austria. Presently, there are only three (out of 183) Members of Parliament at the National Council who have physical or sensory impairments. Even disability spokesmen of the individual political parties are not always persons with disabilities (e.g. the disability spokesman of the Social Democratic Party of Austria). In regional (Laender) politics there are no politicians with disabilities at present. Up to this date, only one person with learning difficulties appeared on the list of candidates of the Social Democratic Party of Austria for an election of the National Council. However, this person had due to his or her ranking at number 379 no realistic chances to a position as a Member of Parliament.

### 4. 2. Exercising the Active Right to Vote

According to the Federal Law on the Election of the Members of the European Parliament (Europawahlordnung), there are regulations on the accessibility of polling stations and on support services during voting for persons with disabilities (offering appropriate aids e.g. for blind or visually impaired persons, freely chosen electoral assistants, etc.). Since the Amendment to the Right to Vote 1998 (Federal Law Gazette I No. 161/1998), the individual election laws prescribe at least one polling station in each municipality or, in Vienna, in each district that is accessible for physically disabled persons according to the technical possibilities. However, no regulations about blind control systems or ballot paper templates are to be found in the electoral regulations of the regions (Laender). Furthermore, accessibility has not been embodied as such in all electoral regulations and thus, it has not been implemented adequately across Austria so far.

People with disabilities can vote as follows: (1) by postal vote or absentee ballots, (2) at “special voting parishes”, such as, for instance, at electoral authorities which have been set up at institutions for persons with disabilities, (3) at a “flying electoral commission” or (4) with the aid of an assistant. The regulations for accessible voting options regarding other elections, such as the one of the Austrian Student Union are inadequate. Thus, not all polling stations for the last election of the Austrian Student Union were freely accessible. The relevant electoral regulation does not stipulate any compulsory provision of ballot paper templates for blind voters; thus, there were no ballot paper templates

<sup>9</sup> Decision of the Federal Government 2008, “Standards for Public Participation”, [www.partizipation.at](http://www.partizipation.at).



available at any of the universities (except for the one at Graz where a provisional solution was provided).

There is no voting material in Easy-to-Read formats, which means that persons with learning difficulties are restricted in their right to vote. Furthermore, there are no permanent and effective measures of political education for persons with learning difficulties. Two workshops of the “Democracy Workshop” that took place in 2008 and that had the objective of educating about political rights of persons with learning difficulties did not have any lasting impacts. Due to a lack of appropriate measures for the political education of persons with learning disabilities, their opportunities to participate in political life are very limited.

### 5. 3. Advocacy Groups and Self-Advocacy Organizations ® cf. Art 12, 19

Advocacy groups are funded on the basis of subsidies. Funding is not guaranteed by law which also results in financial uncertainties. In Austria, there are several self-advocacy groups, such as, for instance, self-advocates of the *Lebenshilfe Wien*, *Mensch Zuerst – People First Vorarlberg*, *Vienna People First*, etc. Further, the network *Selbstvertretung Österreich* (Self-Advocacy Austria) has been founded in 2008 and currently has 54 members. The members are from all over Austria, Southern Tyrol, Switzerland and Germany. Requests of self-advocacy groups usually remain unnoticed; they often feel as if they were not taken seriously by politicians and that they do not receive enough legal support.<sup>10</sup>

Key recommendations of self-advocacy groups are, inter alia:<sup>11</sup>

- Support for the empowerment of people with learning difficulties
- Continuing training for persons with learning difficulties in terms of general knowledge as well as political education (as an individual enrichment)
- Transparent development of the role of supporters as well as constant cooperation of the supporters with self-representatives
- With regard to institutionalized self-advocacy groups: ensure the continuity of self-advocacy work considering various factors such as constant financial support by sponsoring organizations
- PR work among persons with learning difficulties who are not active as self-advocates
- With regard to politically and institutionally independent groups: ensure the continuity of self-advocacy work considering various factors such as constant financial support by the Federal Government (Federal Social Office) or the regions/Laender (*Fonds Soziales Wien*/ engl.: Vienna Social Fund)
- A clear change of perceptions of persons with learning difficulties, by taking their concerns and requests seriously. This requires the support of the Federal

<sup>10</sup> Cf. Protocol of the National Information Day about the UN Convention, Vienna, 30 November 2009.

<sup>11</sup> Cf. Postek. 2009. Politische Teilhabe von Menschen mit Lernschwierigkeiten am Beispiel der Demokratiewerkstatt in Wien. MA Dissertation, University of Vienna, <http://bidok.uibk.ac.at/library/postek-teilhabe-dipl.html>.

Government and a subsidization of the measures for changing perceptions and for fighting discrimination against persons with learning difficulties

- Political education for adults corresponding to the relevant target group; this education should be adjusted to this target group and offer adequate trainings for the supporters of the group

#### **6. 4. Participation**

People with disabilities and the organizations representing them shall be involved as early as possible and actively included in all political processes at federal, regional (Laender) and municipal level, especially in processes of formulating legislative provisions. In Austria, people with disabilities and their organizations are generally invited to issue statements on law amendments or other measures in most cases. However, there is no comprehensive, structured and results-oriented inclusion from the very beginning so far. Subsequently, important suggestions often remain without consequences. This is either due to a lack of political will, the opposition of the economic sector that is strongly represented in Austria or the alleged nonexistent financial viability of measures → cf. Art 4.

Quotation of Self-Advocates:<sup>12</sup>

“We are not even heard by politicians because they believe that everything is so great for us that we don’t want anything else.”

#### **7. Recommendations:**

The full participation of people with disabilities in political and public life is only possible if the basic principles of the CRPD for an equal and independent life are fulfilled. As a basis for exercising the rights within Art 29, reference is thus made to the recommendations of Art 4 (Full Participation in all relevant Measures), Art 8 (Awareness-Raising), Art 9 (Comprehensive Accessibility), Art 19 (Living Independently), Art 24 (Inclusive Education) and Art 27 (Inclusive Work).

Moreover, the following specific recommendations are made for the implementation of Art 29:

- Measures towards comprehensive accessibility during all elections and ensuring secret ballot and the personal right to vote for persons with disabilities
- Measures towards political education for persons with (learning) disabilities and the support of their participation in political life, especially in the occupation of public offices
- Secured funding and support of self-advocacy and advocacy groups as well as their inclusion in all measures that are relevant to them at an early stage

Vienna, 13 October 2011

<sup>12</sup> Source: Protocol of the National Information Day about the UN Convention, Vienna, 30 November 2009.  
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