



**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.¹

In theory, public participation (in general) is guaranteed by the so called “**Standards of Public Participation**”.² 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.³ According to the standards, “all target groups are addressed in a balanced way. The participation process is organised barrier-free.”⁴ 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 19th April 2010.⁵

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

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.⁷ 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?

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

² Cf. http://www.partizipation.at/standards_oeb.html.

³ Cf. Standards of Public Participation, available under http://www.partizipation.at/fileadmin/media_data/Downloads/Standards_OeB/oeb_standards_engl_finale_web.pdf. p. 6.

⁴ Cf. Standards of Public Participation, available under http://www.partizipation.at/fileadmin/media_data/Downloads/Standards_OeB/oeb_standards_engl_finale_web.pdf. p. 6.

⁵ 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.

⁶ 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)”.

⁷ The report is currently available only in German under 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

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.¹⁰

Key recommendations of self-advocacy groups are, inter alia:¹¹

- 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

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

¹¹ 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>.

