

Submission of the Austrian Disability Council to the 73rd session of the CEDAW Committee

Introduction

The **Austrian Disability Council is the umbrella organization of the Austrian Disability Associations**. It comprises 82 Member Organizations and represents the interests of 1.4 million persons with disabilities in Austria. The Austrian Disability Council furthermore operates as the Austrian National Council to the European Disability Forum (**EDF**).

General remarks

On the occasion of the 73rd session of the CEDAW Committee and the replies of Austria to the list of issues, this submission provides information from the Austrian Disability Council (Österreichischer Behindertenrat) regarding the implementation of the CEDAW Convention and the situation of women and girls with disabilities in Austria.

Austria ratified the CEDAW in 1982 as well as the CRPD and its optional protocol in 2008 and is therefore obliged to implement them. Both human rights treaties are of vital importance for the human rights of women and girls with disabilities; they intersect and reinforce each other. **All rights mentioned in the CEDAW and all questions/requests of the list of issues also apply to women with disabilities**, not only the ones where disabilities are directly mentioned.

Women and girls with disabilities are facing multiple and intersecting forms of discrimination in every field of life, based on their gender and their disability, which hinder their participation on an equal basis with others. However, the state report viewed **women with disabilities often only through the lens of disability**. There are references throughout the report to political measures for people with disabilities in general, not women with disabilities. This indicates the general issue, that **women with disabilities are not included in women's rights and gender equality policies, but at the same time they are overseen in disability rights policies. This is despite the fact, that 20,8% of the Austrian population are women with disabilities.**¹

According to the general comment No.18 "disabled women" of the CEDAW Committee, state parties should provide information on women with disabilities in their periodic reports and on measures which has been taken to ensure their equal enjoyment of rights (on an equal basis with others).²

Furthermore, disability is not only a "social" or a "health" issue. The agenda of persons with disabilities in general and those of women with disabilities in particular are human rights issues under the CRPD, cross-sectoral and need to be addressed by all ministries.

¹ Cf. Statistical report of the Social Ministry
https://www.sozialministerium.at/cms/site/attachments/5/1/5/CH3434/CMS1450699435356/statistik_-_mensen_mit_behinderung_20131.pdf p.2 last accessed on 22/05/2019

² CEDAW General recommendation No.18
https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_472_9_E.pdf last accessed on: 22/05/2019

Art. 2 CEDAW Policy Measures / Art. 5 CRPD: Equality and Non-Discrimination

Constitutional framework and policy measures to implement the Convention concerning women and girls with disabilities

In Austria, discrimination against persons with disabilities is prohibited in following laws: The "Federal Disability Act" (Bundes-Behindertengesetz BBG), the "Disability Employment Act" for all matters related to work (Behinderteneinstellungsgesetz BEinstG), and the "Disability Equality Act" (Bundes-Behindertengleichstellungsgesetz BGStG). The Disability Equality Act's objective is to eliminate or prevent discrimination, and it allows for equal participation of persons with disabilities in life and society, multiple discrimination is included. However, the Disability Equality Act still does not include provisions for injunctive relief or claims for the removal of barriers or discriminatory behavior.³

In case of multiple discrimination, the concerned women with disabilities have to approach the Social Ministry Service (SMS) – not the equal treatment commission – and request a mediation. This prior mediation proceeding is mandatory and must be conducted at the SMS before a lawsuit can be brought before the civil court.⁴ But gender-issues are not the primary field of expertise of SMS.

The lack of valid data in all areas concerning women with disabilities is an issue. Apart from regarding employment, there is hardly any data on women with disabilities in Austria. **Statistical data, disaggregated by disability, age and gender would be urgently needed to make the difficult situation of women and girls with disabilities more visible.** This data collection would be necessary to underpin the need for policy measures (prevention of violence, awareness-raising, accessibility of victim support services, etc.). In achieving this, it would be important, that all stakeholders, who are collecting data (such as the Austrian Public Employment Service, the Social Ministry Service and Statistics Austria) use a uniform definition of disability, to make the data comparable.

Women and girls with disabilities are often not covered in women's rights policies.

To improve the situation of women with disabilities, it would be more appropriate to ensure the consideration of the disability perspective in all women rights' and gender equality policies.⁵

Suggested recommendations:

1. Collect valid, accessible data, disaggregated by age, disability and gender on women and girls with disabilities to develop the urgently needed policy measures.
2. Ensure "Gender and Disability Mainstreaming" by all responsible bodies in all legal and policy measures.

³ Cf. Alternative Report of the Austrian Disability Council and the Civil Society 2018, p.5:
<https://www.behindertenrat.at/wp-content/uploads/2018/07/2018-07-17-Alternative-Report-Austria-English.pdf>, last accessed on: 09/25/2018.

⁴ Cf. Disability Equality Act, Art. 10 para. 2 and Art. 11: The Disability Equality Act (Behindertengleichstellungsgesetz, BGStG)
<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004228>, last accessed on: 09/24/2018

⁵ Cf. Alternative Report of the Austrian Disability Council and the Civil Society 2013, p.27:
https://www.behindertenrat.at/wp-content/uploads/2018/07/OEAR-Report_En2013_final_lang.pdf, last accessed on: 09/26/2018

3. Ensure the consideration of the disability perspective in women's rights and gender equality policies, and the women's rights perspective in disability policies.

Art. 3 CEDAW: Guarantee of Basic Human Rights and Fundamental Freedoms / Art. 16 CRPD: Freedom from exploitation, violence and abuse / Item 12 LOI

Violence against women with disabilities

Women and girls with disabilities have **higher risks to experience physical, psychological and sexual violence**. In Austria, every second woman with disabilities has experienced on one or several occasions sexual violence.⁶ For those women who live in institutions, these risks are even higher, because they favor **structural violence (physical, psychological, sexual violence) and forced treatment like five-point fixation**. **Personal assistance** is one of the most important prerequisites for independent living and **could prevent some experiences of violence**. It is of utmost importance to provide personal assistance to women with disabilities, irrespective of whether they are able to work and regardless of their disability. However, currently there is no unified federal legislation concerning personal assistance (PA), only for PA in the workplace and only with a certain care allowance level. **Women (and men) with learning disabilities, however, are not eligible because they often do not have the required care allowance level and because they do not have access to the so-called "primary labor market".⁷**

Among women with disabilities, women with intellectual and psychosocial disabilities and deaf, hard of hearing and deafblind women are in higher risk of discrimination and social exclusion.⁸ A study about "violence and sexual abuse of persons with disabilities" was commissioned by the Social Ministry. Findings are not yet publicly available.

Furthermore, there are **very few specialized victim protection and support facilities which are accessible to women with disabilities**. One exception is the **NGO NINLIL** (placed in Vienna)⁹, which is fighting against sexual violence against women with intellectual disabilities or multiple disabilities by providing peer counselling, counselling services, empowerment and networking. There is an urgent need for more NGOs like NINLIL in all Austrian provinces, because existing services for women with disabilities are usually limited to Vienna. The National Action Plan on Disability 2012-2020 acknowledges that women with disabilities are in a less favorable position compared to other women and men. It is also stated

⁶ Cf. <https://www.aof.at/index.php/studien-zu-gewalt/156-gewalt-gegen-frauen-mit-beeintraechtungen-und-behinderungen> and <https://www.bizeps.or.at/mehrfachdiskriminiert-frauen-und-maedchen-mit-behinderungen-in-oesterreich/> last accessed on: 24/05/2019

⁷ Cf. Alternative Report of the Austrian Disability Council and the Civil Society 2018, p.17: <https://www.behindertenrat.at/wp-content/uploads/2018/07/2018-07-17-Alternative-Report-Austria-English.pdf>

⁸ Cf. Study „Access to specialised victim support services for women with disabilities who have experienced violence“: http://women-disabilities-violence.humanrights.at/sites/default/files/reports/ws_3_empirischer_bericht_oesterreich.pdf, last accessed on: 09/24/2018

⁹ Cf. Ninlil: <http://www.ninlil.at/> last accessed on 22/05/2019

that women with disabilities are subject to disadvantages and discrimination in access to education, vocational training, professional life and old age.¹⁰

The study "Access to specialised victim support services for women with disabilities who have experienced violence" (2014) conducted by the Ludwig Boltzmann Institute of Human Rights concludes that there is a **general lack of awareness** regarding violence against women with disabilities. Furthermore, most of the victim support services are **not accessible** and **do not have the expertise** to support women with disabilities comprehensively. Environmental barriers are not the only challenge; **access to relevant information and the services on offer are also not adapted to the needs of women with disabilities.**¹¹

Women and girls with disabilities are not a homogeneous group. Therefore, it would be necessary to develop and strengthen low-threshold, community support services for the individual needs of women and girls with disabilities.

Suggested recommendations:

1. Develop and strengthen low-threshold, accessible and inclusive community support services for the individual needs of women and girls with disabilities.
2. Improve the protection from violence for women with disabilities:
 - adopt and develop a strategy with targeted time frames and adequate funding to provide security, health and safety for women and children with disabilities
 - Enact legislation, including monitoring mechanisms, to detect, prevent and combat violence within and outside the home of persons with disabilities, especially for women and children with disabilities

Art. 5 CEDAW: Sex Role Stereotyping and Prejudice, Art. 16 CEDAW: Equality in marriage and family / Article 8 CRPD: Awareness-raising, Art. 23 CRPD: respect for home and the family / Item 9 LOI

Stereotypes of women with disabilities and their right to family life and marriage

Women and girls with disabilities are still often seen as "asexual" and "passive beings" and therefore they do not receive sexual and reproductive health education in many cases. Pregnancy and motherhood by women with intellectual disabilities are still taboo subjects in Austria. Contraception is often used automatically, even without their informed consent. Abortions partly occur without providing adequate information or information that can be fully understood by the women concerned. There are hardly any forms of support for accompanying women with intellectual disabilities during pregnancy and motherhood.¹²

¹⁰ Cf. National Action Plan on Disability 2012-2020, p.20:

<https://broschuerenservice.sozialministerium.at/Home/Download?publicationId=165> , last accessed on: 09/23/2018

¹¹ Cf. Study „Access to specialised victim support services for women with disabilities who have experienced violence“, p. 19: http://women-disabilities-violence.humanrights.at/sites/default/files/reports/ws_3_empirischer_bericht_oesterreich.pdf , last accessed on: 09/24/2018

¹² Cf. Alternative Report of the Austrian Disability Council and the Civil Society 2013, p.95-98: https://www.behindertenrat.at/wp-content/uploads/2018/07/OEAR-Report_En2013_final_lang.pdf , last accessed on: 09/26/2018

The narrative around women and girls has to be changed to promote a positive image of women and girls with disabilities. In the domains of marriage, family, motherhood of women with disabilities, no policy measures have been implemented.

The state report mentions under item 9 LOI and subitem "intersectional and multiple discrimination", that through the NAP (National Action Plan) on Disability 2012-2020, stereotyped views should be addressed. Although isolated political measures have been taken, there has been no notable change in the level of public awareness. The skills and the right to self-determination of women and girls with disabilities are still not a point of focus within society.

Another subject of the state report was the recent study about the perception of persons with disabilities in Austrian mass media¹³. This study concluded, that persons with disabilities are either depicted as heroes or as victims. The real life of the majority is not reflected. Another finding of the study was, that **men with disabilities are far more often present in mass media than women with disabilities**. Also, most of the coverage about women with disabilities only concerned Mrs. Grünberg, former successful athlete and present disability spokeswoman of the Austrian Peoples Party (ÖVP), without the reports about her, the male to female ratio concerning the media coverage is about 90 to 10 percent.¹⁴

In 2018 the Austrian Disability Council founded the "expert group on women with disabilities" and created a list of female experts (Expertinnenliste) with disabilities.¹⁵ This list was presented on March 7th, 2019 in front of many media representatives and the ORF (Austrian Broadcasting Cooperation) to raise awareness for the multiple discrimination of women with disabilities in the Austrian media and the urgent need for political measures.¹⁶

Suggested recommendations:

1. Develop an awareness-raising campaign to promote, on the one hand, a positive image of women and girls with disabilities and, on the other hand, empowerment-strategies for women and girls with disabilities.
2. Introduce policy measures to ensure, that sexual and reproductive health services are made accessible to and inclusive of women and girls with disabilities (informative accessibility as well as environmental accessibility).

Art. 10 CEDAW: Education, Art. 11 CEDAW: Employment / Art. 24 CRPD: Education, Art. 27 CRPD: Work and employment / Item 18 and 19 LOI

Education and Labour market opportunities

The education system in Austria is not inclusive of children with disabilities, it is still focusing on segregation. The ratification of the CRPD did not lead to changing the **policy of segregating women and girls with disabilities**. There are still Special Schools, sheltered employment structures and large institutions. Women and girls with disabilities have even fewer chances in the education system, than men with disabilities.

¹³ Cf. Persons with Disabilities in the Austrian Media 2015-2016:

[https://www.rtr.at/de/inf/Studie Menschen mit Behinderung](https://www.rtr.at/de/inf/Studie_Menschen_mit_Behinderung) last accessed on: 20/05/2019

¹⁴ Ibidem p.56 and 57

¹⁵ Cf. <https://www.behindertenrat.at/expertinnenliste/> last accessed on: 21/05/2019

¹⁶ Cf. <https://www.behindertenrat.at/2019/03/gegen-die-unsichtbarkeit-von-frauen-mit-behinderungen/> last accessed on: 21/05/2019

The recent government program “Together for our Austria – 2017-2022” contains even plans on further developing the Special School sector instead of promoting inclusion. The way out of a Special School usually leads directly into **sheltered employment structures**, where women with disabilities do not have independent social insurance (except for accident insurance), do not receive wages based on collective agreements (but only some pocket money), or legal regulations on workers’ protection, paid leave and sick leave; employee provision schemes and labor relations (e.g. trade union representation) do not apply.¹⁷ Due to the fact, that there is still no inclusive education system, the prerequisites for an inclusive working environment are not being met.

Women with disabilities do not have the same opportunities on the employment market as men with disabilities. The labor market participation of women with disabilities is lower than that of other women and also lower than that of men with disabilities. Therefore, they are also at greater risk of poverty. They are predominantly employed in low-paid, specifically female professional fields and at lower hierarchy levels.¹⁸ The National Action Plan on “Equality between women and men on the labour market” which entered into force in 2010, doesn’t mention women with disabilities.¹⁹

In January 2019 started the test-phase of a new “client-segmentation”, an algorithm within the Austrian AMS (public employment service). This AMS algorithm, calculates employment opportunities, on the basis of characteristics like age, gender, disability, nationality and others. It was criticized from diverse groups of civil society, because it could exacerbate the unemployment situation of already disadvantaged groups like single mothers, people older than 50 years as well as women with disabilities²⁰ and therefore their poverty risk. **The ombudsman board criticized, that the AMS algorithm will strengthen stereotypes against women and persons with disabilities.**²¹ The AMS argued, that the algorithm doesn’t foster discrimination; it would simply show the reality on the labor market and disadvantaged groups like women will get targeted support.²² There is a target group “women” within the AMS, but no specific target group „women with disabilities”.

No steps have been taken to reduce poverty. Within the new **Social Security Act**²³ (Sozialhilfegesetz), **prevention of poverty is no longer an objective**; contrary to the

¹⁷ Cf. Alternative Report of the Austrian Disability Council and the Civil Society 2018, p.20: <https://www.behindertenrat.at/wp-content/uploads/2018/07/2018-07-17-Alternative-Report-Austria - English.pdf>, last accessed on: 09/26/2018

¹⁸ Cf. Cf. Alternative Report of the Austrian Disability Council and the Civil Society 2013, p.133: https://www.behindertenrat.at/wp-content/uploads/2018/07/OEAR-Report_En2013_final_lang.pdf, last accessed on: 09/26/2018

¹⁹ Cf. <https://www.frauen-familien-jugend.bka.gv.at/frauen/gleichstellung-arbeitsmarkt/nationaler-aktionsplan.html> last accessed on: 23/05/2019

²⁰ Cf. <https://derstandard.at/2000089720308/Leseanleitung-zum-AMS-Algorithmus> and <https://www.bizeps.or.at/algorithmus-bewertet-die-jobchancen-von-arbeitssuchenden/> last accessed on: 22/05/2019

²¹ Cf. <https://volksanwaltschaft.gv.at/artikel/volksanwaltschaft-sieht-ams-algorithmus-aeusserst-problematisch> last accessed on: 22/05/2019

²² Cf. <https://kurier.at/politik/inland/ams-chef-kopf-algorithmus-ist-vorteil-fuer-frauen/400346614> last accessed on: 24/05/2019

²³ Cf. Social Security Act, Art.1

https://www.ris.bka.gv.at/Dokumente/RegV/REGV_COO_2026_100_2_1587910/REGV_COO_2026_100_2_1587910.html last accessed on: 22/05/2019

former **Minimum Income Scheme**²⁴ (Mindestsicherung), which included this aim. The concrete impacts will only become visible, once the implementation acts of the provinces are in place.

Suggested recommendations:

1. Take inclusive education into action instead of further developing the Special School sector.
2. Ensure equal opportunities for women and girls with disabilities in the labour market (gainful employment instead of sheltered employment structures).

Art.15 CEDAW Equality before the law/ Art.12 CRPD Equal recognition before the law / Item 6 LOI

A positive development was the implementation of the "Protection of Adults Act" (Erwachsenenschutzgesetz), which entered into force at the 1st of July, in 2018. As a result, the possibility to act on behalf of another person, e.g. with intellectual disabilities (guardianship) was severely restricted. However, the success of the Protection of Adults Act will largely depend on implementation practices. The Provinces, for their part, also must develop and implement programs to promote supported decision-making. **Currently there are too few community-based supporters for women with disabilities.**

There are no specific legal aid programmes for women with disabilities. However, there is the "**women emergency helpline**" ("**Frauennotruf**") for all women and girls, who experienced physical, psychological or sexual violence and is free of charge.²⁵ This helpline **offers psychological as well as legal support, also for deaf women in Austrian Sign Language** ("ÖGS") via relay service²⁶ and is operated by the "**Association of the independent Austrian Women's Shelters**" (Verein autonomer österreichischer Frauenhäuser)²⁷. This Association gets funding by the Ministry of Social Affairs, the Federal Chancellery of Austria and the municipal department 57 of the city of Vienna, concerned with women policies ("MA 57 Frauen"²⁸).

Closing remarks:

The government program "Together for our Austria - 2017 - 2022" foresees financial cuts in the areas of work, education, health care, social affairs and research, which will affect women with disabilities to a large extent. It is important to emphasize the need for investments in women and girls with disabilities, as they are at higher risk of poverty and at higher risk to experience violence. Funding is also important for specialized victim support service for women with disabilities, for DPO's (Disabled People's Organisation), in education and employment opportunities. These are all investments in the future, because they help to ensure a society with inclusive, sustainable, economic growth and the effective enjoyment of human rights and freedoms by ALL women with disabilities.

²⁴ Cf. Minimum Income Scheme, Art.1

https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2010_I_96/BGBLA_2010_I_96.html last accessed on: 22/05/2019

²⁵ Cf. Women Emergency Helpline: <http://www.frauenhelpline.at/de/angebote> last accessed on: 23/05/2019

²⁶ Cf. ÖGS Relay Service: <http://www.oegsbarrierefrei.at/frauenhelpline/> last accessed on: 23/05/2019

²⁷ Cf. <https://www.a oef.at/> last accessed on: 23/05/2019

²⁸ Cf. <https://www.wien.gv.at/kontakte/ma57/> last accessed on: 23/05/2019

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