

15 October 2011

Independent Monitoring Committee¹ for the Implementation of the UN Convention on the Rights of Persons with Disabilities

(Section 13 Austrian Federal Disability Act)

Contribution

**In response to a request by the Office of the High Commissioner based on
Human Rights Council Resolution 16/15 – “The role of international
cooperation in support of national efforts for the realization of the rights of
persons with disabilities” requesting “a study on participation in political and
public life by persons with disabilities.”**

I. Introduction

The Austrian Monitoring Committee, entrusted with monitoring the protection and promotion of the Convention on the Rights of Persons with Disabilities (CRPD) in Austria, is grateful for the opportunity to contribute to this study.

The Committee will respond to the set of questions below, as part of the introduction the Committee would like to highlight a couple of key factors in its three year experience with participation of persons with disabilities:

- **Participation obligation**

The obligation to ensure participation of persons with disabilities in the CRPD – Article 4 Para 3 – is an overlooked provision in the Convention. The Monitoring Committee has frequently highlighted the provision and underscored its setting within the obligations of the Convention. More often than not public officials have responded

¹ The Austrian government ratified the Convention on the Rights of Persons with Disabilities (CRPD) in October 2008. The main legislative measure taken to implement the Convention was the establishment of a Monitoring Committee pursuant to Article 33 of the Convention. Amending the pertinent sections of the Federal Disability Act (*Bundesbehindertengesetz*), an independent mechanism has been put in place to make recommendations to the Federal Disability Council, which in turn advises the Minister for Social Affairs: www.monitoringausschuss.at.

with consternation and regret for having missed the provision. The Committee thus sees Article 4 Para 3 of the Convention as part of the top awareness raising issues.

In equal measure, the general principles – Article 3 Para (c) – on participation is frequently overlooked.

The Austrian Federal government has committed itself to Standards for Public Participation – www.partizipation.at - the Monitoring Committee is keen to see the application of the Standards applied in an accessible and inclusive fashion rather than creating a second track with all the risks of creating separation.²

- **Accessibility of information**

A key to ensuring participation is the provision of accessible information: enabling the participation of persons with disabilities depends on making sure that all persons with disabilities can access information about participation opportunities. This is particularly true for persons with intellectual impairments in terms of Easy-To-Read-Formats but applies also to persons with communicative assistance needs and persons who are deaf and thus require sign language interpretation.

- **Translation**

The Austrian Monitoring Committee notes that “participation” is used more than 30 times throughout the CRPD. The German translation uses multiple terms (e.g. *Teilhabe, Einbeziehung*), each of which conveys a slightly different dimension of the term “participation.” While a direct German translation is available – “*Partizipation*” – it is not used in the German text of the CRPD.

II. Questions

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

The right to vote is enshrined in Article 26 Federal Constitutional Act. The provision is a more recent reversal of provisions that limited the right to vote of persons with disabilities, particularly those with an intellectual impairment. The two standard commentaries to the Federal Constitutional Act³ both imply that the right to vote for persons with intellectual impairment is questionable – ironically both commentaries rely on such dense legalese that the slight could almost be overlooked.

² Recommendations of the Austrian Monitoring Committee, Budgetbegleitgesetz (Budget Act 2009), 6. Juli 2009, Partizipation (Participation), 19. April 2010, see: monitoringausschuss.at.

³ Schäffer/Rill, Kommentar Bundesverfassungsgesetz, Artikel 26, Rz 26.

The Monitoring Committee is set to look thoroughly on the effective realization of autonomous decision making at its next public meeting in November 2011, and – in keeping with participation standards – reserves comment on the practical restrictions of the right to vote until a later date.

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.

As the Monitoring Committee explained in its contribution to the 2009 Study regarding national monitoring mechanisms, “The Monitoring Committee is comprised of seven members, all of whom are proposed by the main Disabled People’s Organization, the Austrian National Council of Disabled Persons (ÖAR). Four members represent disabled people’s organizations, one each represents a human rights non-governmental organization, a development cooperation organization and one person is a university expert. In addition one substitute is nominated per member.” And: “The members are appointed by the Minister of Labour, Social Affairs and Consumer Protection for a period of four years. (...) The Monitoring Committee has a variety of duties and responsibilities, which derive from both the Convention as well as Section 13 Federal Disability Act.”⁴

The Monitoring Committee strives to uphold a minimum level of participation within its very restricted resource possibilities. Accordingly, the Monitoring Committee is committed to holding public meetings twice annually. Four such meetings have been held since its inception, the fifth public meeting is to take place in mid-November.

In preparation of such meetings, the Monitoring Committee provides a draft recommendation or a discussion paper on its web site. A version in Easy-to-Read-Format is made available, efforts to provide a sign language video are underway.

The public meetings have so far been attended by an average of 130 persons with an increasing participation of persons with disabilities and have taken place at the Parliament in Vienna, the Ministry for Health as well as a University auditorium in the west of the Austria. At the meetings, the draft or discussion paper respectively is briefly introduced by members of the Committee, with the possibility to comment. Persons with disabilities are given preference in making contributions and the three-minute-rule for interventions is lifted for those persons overcoming communication

⁴ Compare Contribution to 2009 Study, <http://www.ohchr.org/EN/Issues/Disability/Pages/DisabilityIndex.aspx>.

barriers. The minutes of the meetings, which reflect every intervention by name, are made available on the web site – as are the minutes of all other Committee meetings. The Committee invites additional comments to the draft and discussion for a minimum of six weeks following the public meeting. Thereafter, a summary of the submissions and the revised recommendation are made available on the web site.

Efforts to ensure participation of persons with disabilities in the monitoring process are at the beginning, within its limited resource possibilities, the Monitoring Committee is committed to revising and improving opportunities for participation of persons with disabilities. The Monitoring Committee is also guided by the Standards of Public Participation.⁵

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.

The composition of the Monitoring Committee specifically covers expertise in the field of international development cooperation, a feature, which the Committee perceives as a unique possibility to ensure that the inclusion of and accessibility for persons with disabilities is promoted and protected in all policies and programs. That said, the Committee is tasked with monitoring and thus does not take part in the operational aspects of development work.

To the Monitoring Committee's knowledge the Austrian Development Agency has very recently set up an expert group to look into increasing the accessibility and inclusiveness of Austria's aid provision.

⁵ See above, introduction.