**ANSWERS OF AUSTRIA TO OHCHR QUESTIONNAIRE FOR ITS ANNUAL STUDY PURSUANT TO HRC RESOLUTION 31/6**

**Question 1 - Laws and other regulations concerning the prohibition of discrimination**

Considering the fact that **Austria is a Federal State** where the competences between the Federation and the Länder are split, **various authorities** set policies for persons with disabilities (PWD), especially under the **aspects of affirmative action and anti-discrimination**. Whilst vocational rehabilitation (and long term care) of PWD is a matter of the Federal State, social inclusion measures are primarily a matter of the Länder.

Within the **scope of the Federal State** the following laws are to mention:

* **The Disability Employment Act** is the central legal element for inclusion into working life. Main pillars are the quota scheme, subsidies, the special protection clause against discrimination and provisions against discrimination in the field of employment according to the EU Council Directive 200/78/EC.
* **The Federal Disability Equality Act** regulates the prohibition of discrimination in daily life, fare beyond the obligations set out in the above mentioned EU Framework Directive.  Therewith two goals shall be reached, first the abolishment of discrimination in important areas of life and secondly that PWD shall participate on an equal basis with others in society in order to be pro-active participants in society.
* **The Federal Disability Act** contains the regulations for the Disability Ombudsman.

Beside these legal provisions exist a variety of provisions exist, especially anti-discrimination-laws on the level **of the Länder**.

Reasonable accommodation has specific relevance in relation to the adaption of workplaces within the vocational rehabilitation/ inclusion of PWD.

The **output, the current situation of all national disability and anti-discrimination policies and their further advancement** in key areas of life is laid down in the **National Action Plan on Disability 2012-2020 (NAP)**, which contains about 250 measures with corresponding timelines and responsibilities. In a nutshell: The NAP is the Strategy of the Austrian Government for the implementation of the UN Disability Rights Convention, where in the whole process Civil Society and the organizations of PWD were and are intensively involved. The aim of all these measures is to reduce inequality within society, e.g. in the area of work so to find, to safeguard or to get jobs back.

**Question 2 – Question concerning possible undue/ disproportional burden**

Concerning the question when a measure requested by a PWD is undue or disproportionate, the **Federal Disability Equality Act gives some guidance** as the following aspects have to be taken into consideration:

* the **related efforts**, which have to be taken into account to remove the alleged discrimination,
* the **economic capacity** of the discriminating party,
* the **availability of public furtherance** or
* the **time since the coming into force of the law.**

Reflecting **court decisions** there are some cases of interest. The Austrian High Court dealt with a case, where the Austrian Broadcasting Television produced a **DVD, which had no subheadings** for deaf persons. In the verdict discrimination was confirmed as the measure was seen as a **reasonable burden** for the producer. On the contrary there was a decision that the total adaption of a large exhibition area was seen as a **disproportionate burden**.

In the field of employment the **bullying at work** by working colleagues was also seen as a legitimate reason to sue for compensation.

In that regard it should be mentioned that there exists a precondition before bringing a claim before court, namely that the applicant has had to make **an attempt for conciliation at the Sozialministeriumsservice** to try to come to an agreement. The experiences since 2006 show that the conciliation proceedings at the Sozialministeriumsservice are well accepted, especially the way of **handling talks between the parties** in a relatively informal way, which is highly appreciated.

**Question 3 – Description of affirmative actions combating structural discriminations**

The CRPD entered into force in Austria on 26 December 2008. In order to **implement this Convention** the Federal Ministry for Labour, Social Affairs and Consumer Protection has developed the **National Action Plan on Disability 2012-2020**. This is the **comprehensive strategy for the current and future Austrian Disability Policy**. The NAP describes the current situation in each special area, formulates policy objectives and contains 250 measures with corresponding timelines and responsibilities. In line with the disability mainstreaming concept, the measures have to be applied by the individual federal ministries according to their responsibilities, because the rights of PWD are human rights and they cover all areas of life.

The NAP **holds 8 key approaches**, where a number of **individual affirmative actions** are taken into account, namely

1. Disability Policy
2. Protection against discrimination
3. Accessibility
4. Education
5. Employment
6. Independent Living
7. Health and rehabilitation
8. Awareness-raising and information

A **second pillar** to improve the working situation of PWD is the so called “**Behindertenmilliarde**”, where € 170 – 180 million Euros are spent for the vocational integration/ inclusion of PWD in order to balance the disadvantages this group of person does have in the labor market.

**Question 4 – Anti-discrimination policies against women and children**

Bearing in mind that the principle of equality before the law does not lead itself to equal chances in practice Austria has taken **increasing efforts** in combating discrimination. Generally all measures concerning affirmative actions and anti-discrimination are designed with the view that **professional development** leads at the same time to more opportunities in the private life. So the Austrian government has taken comprehensive measures with regard **to optimizing the labor market prospects**, especially for young people with disabilities. **Key project approaches** in that regard are **Youth Coaching**, Production School, Vocational Training Assistance, Work Assistance or Job Coaching.

The **policy framework** in that regard takes into account that there has to be a **mutual advantage**, for PWD as well as for employers. Feedback and statistic do show that one real advantage for the employer is that there is somebody in the background, they can contact. In practical terms that includes also the outsourcing of administrative belongings for a limited time. It is also worth mentioning that the **targeted group** is not only the traditional group of PWD in the classical sense. There are young parents, isolated persons, people, where things didn’t run well, refugees or young people with social and emotional challenges.

With regard to combating discrimination it is important to take into account **certain conditions as early as possible** (Mother-Child-Pass Scheme) so that early support measures/ or therapy can take place. **Regional contact points** and **coordination offices** to act as **one-stop-shop** in order to coordinate the different treatments are of utmost relevance. Goals are to **combat child poverty** and to **contribute towards the compatibility of family life and work**. In that regard also the **increased family allowance**, provided by the state, due to the need of high quality individual care (public and private child care facilities) should be mentioned. Other aspects concerning the policy framework and legislation are e.g. **awareness raising** about the situation and the rights of children and women with disabilities, the **teardown of traditional patterns** or the **new legislation on children’s legal advisors in proceedings** in the custody and rights of access of minors under the age of 14, which supports especially children in difficult living environments as well as children with disabilities.

Recognizing that **women and girls with disabilities,** both within and outside the home, **are often at greater risk o**f violence or abuse, **keywords** are the **inclusion of the gender perspective** and **gender mainstreaming** in all plans related to disability policy, **the right of self-determination**, the fact that **violence against women with disabilities and defending** themselves effectively when necessary should be the subject of more public debates or the **improvement of access to medical services**.

**Question 5 - Statistics**

In general **a variety of data and statistics exists including gender, age and impairment disaggregation**. The Federal Ministry of Labour, Social Affairs and Consumer Protection is commissioning regularly **surveys** concerning the situation of PWD, mainly through the state agency **Statistics Austria**. Additionally there are the statistics of the Federal Ministry, e.g. data in connection with the NAP as well as data produced by other institutions as the **Public Employment Service**, the **Social Insurance Institutions** or the **Laender**.

Austria has some (in part) **very detailed statistics** and data on the issue of disabilities, particularly in the **field of the employment** of PWD and **in relation to the payment of benefits** to PWD.

In **2015,** a second time after 2007, the Federal Ministry ordered a **comprehensive periodic survey concerning the situation of PWD**  by **Statistic Austria**. The results shall be incorporated in the **Disability Report**. Special attention was given to the question of a possible restriction due to health impairment over a longer period of time (6 month). The **following aspects** were taken into consideration:

* disability and age
* disability and education
* disability and gender
* kinds, severity and frequency of disability
* disability and employment
* areas where impairments most often occur

Further measures in the **international context**, which are part of the Austrian NAP, are the participation in the **surveys by Eurostat** or the evaluation of the **EU-SILC** data.

**Question 6 - Reducing the inequality within society**

Recalling the **principle of reducing inequality** within and among countries as enshrined in Goal 10 of the Sustainable Development Goals. Austria focuses on the above mentioned policies, which implement the principles of the CRPD in order to empower and promote the social, economic and political inclusion of PWD by rising equal opportunities and eliminating inequalities.

In the **legislation on disability rights** this change of the **human rights based approach** can be seen vividly since 2006.

The **prohibition on discrimination**, which is regulated by the Federal Disability Equality Act and by the Disability Employment Act, is a milestone in Austrian disability policy as for the first time PWD has a right to claim damages in the case of discrimination. Experiences made until now have shown that the package of laws on disability equality have turned self-determination , equal opportunities and accessibility into issues of public interest.

Concerning the **national implementation and monitoring of Art. 33** **of the CRPD** Austria has established the independent monitoring mechanism, focal points and a coordination mechanism in the Federal Ministry. The **Federal Disability Advisory Board** and the **Disability Ombudsman** are involved in the process. The Federal Ministry of Labor, Social Affairs and Consumer is also in regularly contact with the umbrella organization of the disability organizations, the **Austrian National Council of Disabled Persons**.