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Subject: Human Rights Council resolution 13/11 - „Human Rights of Persons with Disabilities: national implementation and monitoring and introducing as the theme for 2011 the role of international cooperation in support of national efforts for the realization of the rights of persons with disabilities“

Contribution of the German Institute for Human Rights

Preliminary note: The GIHR's department for development cooperation has been advising German bilateral development cooperation agencies as well as the Ministry for Economic Cooperation and Development (the Ministry) in the implementation of a human rights-based approach since 2005, within the framework of a contract with GTZ (Gesellschaft für technische Zusammenarbeit, a state-funded bilateral development cooperation agency). It is within this context that the rights of persons with disabilities play an ever increasing role. The main entry points are disability as a cause for marginalisation and structural discrimination, the participation of NGOs and DPOs in development processes as well as their contribution to them and the explicit pronouncement of the CRPD on states' obligations in international cooperation. The following comments are mainly based upon this experience, although additional information derived from exchanges with disability NGOs and DPOs is reflected as well. The comments focus on Germany's bilateral development cooperation.

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a. Key measures adopted at national level to implement the Convention on the Rights of Persons with disabilities, and relative budgetary allocations;

- *Academic advice.* After ratification of the CRPD, the Ministry commissioned a study to take stock and to illustrate the implications of Art.32 CRPD for German development policy and cooperation (a summary is available only in paper/German - Degener/Jahn 2007).
- *Ministry staff.* There is one desk officer which is responsible for the implementation of the CRPD in development cooperation (among other tasks).
- *Advice/support regarding implementation.* One of the above mentioned study's recommendations was to install a so-called "cross-sectoral project" within GTZ to advise the Ministry and the other state development cooperation agencies concerning the integration of disability issues into development cooperation (through a twin track approach, ie both targeted measures as well as mainstreaming). This cross-sectoral project consists of 2 persons and is operating since beginning 2010. The main function of such a cross-sectoral project is to serve as an advisory body esp. with regard to the implementation of a specific topic in programmes. In addition it might also support the respective Ministry's desk officer in his daily tasks (speeches, commenting policy papers etc), therefore basically serving as an extended unit of the Ministry's respective desk. (It has to be mentioned however that this is a quite common approach as there are about 80 of these cross-sectoral projects within GTZ, among them also human rights, gender and women's rights, children's rights et as well as other topics such as conflict prevention, governance etc..)
- *Cooperation with civil society.* In April 2010, the Ministry organised a first round table to discuss disability integration into German - state and non-state - development cooperation with roughly 40 participants from government as well as NGOs and DPOs. The Ministry announced to hold these meetings on a regular basis; a second meeting is scheduled for November 2010. By organising these round tables, the Ministry intends to initiate a dialogue with civil society on the implementation of the CRPD. Even though at this first meeting no detailed joint work plan, project or strategy has emerged, these meetings could provide a basis for joint reflection and action; this development could also be taken as a sign for the Ministry's intention to implement the CRPD in development cooperation in an inclusive and participatory manner.

b. Challenges and obstacles to the full implementation at national level of the Convention on the Rights of Persons with Disabilities;

- *State-focus of German bilateral state development cooperation.* From a human rights-based approach perspective, strengthening not only duty-bearers (response) but also rights-holders (voice) is essential. Strengthening DPOs and participation of civil society are fundamental aspects characterizing the CRPD and participation and inclusion are principles which are required to guide CRPD implementation. Development cooperation programmes are however negotiated in bilateral negotiations between governments. Experience shows that partner governments might be inclined to prefer those programmes which focus on strengthening state structures rather than capacity-building of civil society organisations (CSOs) including

DPOs, or they prefer programmes where CSOs/DPOs are included because of their instrumental value for the specific programme objective (“civil society participated in the elaboration of a proposal”), but are not strengthened as an actor as such (e.g. in their watchdog function). Referring to the principle of “ownership” (OECD Paris Declaration), this is often not (overtly) challenged by German development cooperation representatives. Therefore, both the way in which development cooperation is conceived, as well as the interpretation of the principle of ownership (partner government instead of population) are structural impediments for the implementation of a human rights-based approach in general and are expected to bear also on the implementation of the CRPD.

- *Lack of clarity of extraterritorial human rights obligations concerning development cooperation:* The assumption among Ministry staff is still quite common that human rights treaties have no bearing on states’ actions abroad. If extraterritorial obligations are discussed at all, then mostly with regard to whether 0.7% ODA is a legally binding obligation. Thus, the procedural dimension of human rights (progressive realisation, human rights principles guiding the process) as well as the institutional dimension (integration of human rights into implementation as well as evaluation instruments) are usually neglected. As CRPD is the first convention to elaborate in more detail on the implications for development cooperation, further guidance from the Human Rights Treaty Bodies and especially the Committee on the Rights of Persons with Disabilities e.g. in the form of a General Comment would be highly welcome. The reporting guidelines for the CRPD are already helpful in this regard, as they do not proclaim specific targets, but focus on processes and instruments as well.
- *Compartmentalisation of mainstreaming issues in development cooperation:* Even though there are several desk officers in the Ministry dealing with human rights issues (human rights in general, gender and women’s rights, children and youth rights, disability rights, indigenous peoples), there is no joint strategy to implement a human rights-based approach encompassing all particular concerns - something which however could strengthen joint human rights concerns. A policy paper on human rights is scheduled for end of this year and is expected to encompass the range of specific human rights concerns, but only at the policy, not the implementation level.
- *Verbal open-mindedness towards human rights, but structural integration into instruments could be strengthened:* Despite the new Minister’s verbal embrace of human rights, integration of human rights in general and disability in particular into instruments of development cooperation is still a way to go. Up to now, there is no systematic reporting on which programmes - or parts thereof - are geared towards the implementation of human rights, in particular with regard to the human rights of persons with disabilities, nor is there a guidance of what “implementation of a human rights based approach” and disability rights in particular requires programmes to do and how this is distinguished from those programmes which in one way or another are merely relevant for human rights. This is in particular true for the rights of person with disabilities.
- *Funding criteria:* The Ministry provides a funding mechanism for NGOs (<http://www.bengo.de/>). The overall funding objective encompasses the promotion of human rights, which should be read as including disability. The criteria however, esp. the criterion on sustainability, seem to be interpreted in a way which favour projects

providing basic services (such as health services etc.). These receive a start-up funding and are expected to be self-sufficient after some time. In other words, projects which would purely focus on supporting advocacy work (whose raison d'être is to render itself dispensable), face rather dim prospects of being funded.

c. The existence, scope and content of policies and/or guidelines adopted at national level to guide international cooperation in support of the Convention;

- None so far, neither for development cooperation only, nor one encompassing all relevant ministries (e.g. Foreign Office, Economics and Technology, etc.)
- A Policy Paper (2006, <http://www.gtz.de/de/dokumente/de-behinderung-und-entwicklung.pdf>) on "Disability and development" postulates the Ministry's objectives - amongst them inclusion and a human rights-based approach - without operationalising those. As stated already above, further methodological and conceptual development as well as operationalisation is needed.
- National Action Plan: At present, a Federal Action Plan encompassing a number of areas of the Convention is being elaborated under the auspices of the Federal Ministry of Labour and Social Affairs. The issues related to international cooperation, however, do not yet figure prominently among the content, and up to now are not being allocated a chapter of their own, despite respective and repeated claims from civil society organisations.

d. Forms of international cooperation that, at bilateral and multilateral level, as a complement to national efforts, can play a key role in assisting the realization of the Convention at national level;

- At the national level, a working group on disability exists within VENRO, an umbrella organisation of development NGOs. Amongst others, one of the products has been a handbook (in German) on how to integrate persons with disabilities into development cooperation programmes (http://www.venro.org/fileadmin/redaktion/dokumente/Dokumente_2010/Publikationen/Maerz_2010/GewusstWie_v06_WEB.pdf).

e. Examples of engagement in international cooperation and assessment of their impact on promoting the realization of the Convention;

- To our knowledge, German and international NGOs - especially CBM (Christoffel-Blinden-Mission) and Handicap International - have been at the forefront of implementing disability rights in development cooperation.
- It is worthwhile mentioning that for some years already CBM is seconding a staff member to GTZ, in order to facilitate knowledge transfer (CBM into GTZ and vice versa. Another staff member is seconded from CBM to the WHO).