



International Disability Alliance (IDA)

Member Organisations:

Disabled Peoples' International, Down Syndrome International, Inclusion International, International Federation of Hard of Hearing People, World Blind Union, World Federation of the Deaf, World Federation of the DeafBlind, World Network of Users and Survivors of Psychiatry, Arab Organization of Disabled People, European Disability Forum, Red Latinoamericana de Organizaciones no Gubernamentales de Personas con Discapacidad y sus familias (RIADIS), Pacific Disability Forum

Submission to the Pre-sessional Working Group on Austria, 60th session of the UN Committee on the Rights of the Child

About the Organisations

The **Oesterreichische Arbeitsgemeinschaft fuer Rehabilitation (OeAR)** is the umbrella organisation of Austrian disability associations. It comprises 78 member organisations and represents the interests of 400,000 persons with disabilities in Austria. The OeAR is a member of and operates as the Austrian National Council to the European Disability Forum.

The **European Disability Forum (EDF)** is the independent European umbrella organisation representing 80 million disabled Europeans, to which the OeAR is a full member. EDF is the only European pan-disability platform run by persons with disabilities and their families. Created in 1996 by its member organisations, EDF ensures that decisions concerning persons with disabilities are taken with and by persons with disabilities.

The **International Disability Alliance (IDA)** is a unique international network of global and regional organisations of persons with disabilities, of which EDF is a regional member. Established in 1999, each IDA member represents a large number of national disabled persons' organisations (DPOs) from around the globe, covering the whole range of disability constituencies. IDA thus represents the collective global voice of persons with disabilities counting among the more than 1 billion persons with disabilities worldwide, the world's largest – and most frequently overlooked – minority group. IDA's mission is to advance the human rights of persons with disabilities as a united voice of organisations of persons with disabilities utilising the Convention on the Rights of Persons with Disabilities and other human rights instruments.

AUSTRIA

This submission provides supplementary information from the Austrian and international disability movement to the third and fourth periodic report (*hereinafter* State Report) submitted by the Austrian government to the Secretariat of the CRC Committee in August

2009. This submission will cover Articles 3-6, 9-11, 18-21, 23-28, 34, 39, 42 and 44 of the Convention.

Austria ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol on 26 September 2008. It is clear that the human rights standards of the CRPD and the CRC intersect and reinforce each other when it comes to the rights of children with disabilities. Throughout this submission, in addition to provisions of the CRC, references to CRPD provisions will also appear.

Suggested questions and recommendations appear at the end of each section and also a compilation of all suggested questions and recommendations appears at the end of this document.

General implementation measures (Articles 4, 42, 44(6))

In addition to all rights of the CRC, Art 23 highlights the responsibility of the State to ensure the full enjoyment of all rights by children with disabilities “in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community”. The CRC Committee emphasised the principles of non-discrimination and full inclusion of children with disabilities in the community in General Comment No 9.¹

After long standing calls and recommendations by the CRC Committee,² the **rights of the child** have been **recognized as fundamental rights by the Austrian Constitution** in 2011 (Federal Gazette I number 4/2011). Article 6 of the Federal Constitutional Act on the Rights of the Child stipulates the right of children with disabilities to protection and care according to their special needs. Furthermore, Article 6 refers to the general principle of non-discrimination embodied in the Austrian Constitution (Article 7, para 1 Federal Constitutional Act) and puts it in concrete terms the equal treatment of children with and without disabilities in all aspects of daily life.

Nevertheless, the practical realisation of the legal protection from discrimination of children with disabilities in all areas of life cannot be considered adequate. Children with disabilities have not been (or at least not sufficiently) included in the various fields of society in Austria. There is a trend in legislation and practice towards fragmented and half-hearted attempts to “integration”, accompanied by a nationwide inconsistent image due to the prevalent federal structures. There is **no general commitment to the inclusion of children and youth with disabilities**; there is no action plan with clear indicators to ensure effective and sustainable inclusion through administrative practices by the public authorities in order to achieve the equal participation of children and youth with disabilities in the community.

There is a strong need to improve the **image of children with disabilities within the society** and the public’s perception of them. The paradigm shift from the medical towards the social model of disability and from the welfare concept towards the human rights based approach confirmed by the UNCRPD has not been implemented to date. Despite the important contribution of the mass media to the promotion of the child’s wellbeing and health, recognised in Article 17, children and youth with disabilities are rarely portrayed in the media. When they are, the portrayal is strongly marked by need and dependency instead of human rights principles such as self-determination or inclusion. A prime example is the charity campaign “Licht ins Dunkel” (“Light into the Darkness”) that was initiated by the public-legal broadcasting corporation (Oesterreichischer Rundfunk; ORF) and that is based on a concept that primarily provokes pity and sympathy for children with disabilities.

¹ CRC/C/GC/9.

² Cf. e.g. the Concluding Observations of the CRC, CRC/C/15/Add.251, 31 May 2005, para 9.

In many areas, the **lack of accessibility to the physical environment, to information and communications and services** constitutes an enormous obstacle to the full participation of children with disabilities in the community, contrary to Article 23(1) of the Convention. This concerns, for instance, schools and other public institutions that are not accessible, a lack of services which make available alternative forms of communication (such as Braille and the use of sign languages), inadequate interpretation services for deaf children, the absence of captioning in films and TV programmes, or insufficient information available in plain language. The availability of technical aids for children with disabilities is often not adequate or not free of charge and thus, the reduction of barriers is made difficult.

The realisation of Article 23(2) of the Convention is compromised by the **absence of a nationwide and comprehensive system of personal assistance** in Austria. This has negative effects on the opportunities for children with disabilities to strengthen their autonomy and independence and to lead a self-determined life.

Recommendations:

- Ensure the mainstreaming of children with disabilities in all legislative and policy action for children, and promote the full inclusion and participation of children with disabilities and their representative organisations in decision making and policy making affecting them.
- Undertake awareness raising campaigns aimed at the government, public and families to promote the positive image of children and adults with disabilities and their role as active participants and contributors to society.
- Adopt measures for strengthening a self-determined lifestyle of children with disabilities (e.g. entitlement to technical aids or personal assistance) in order to encourage them to develop their full personalities and exercise all their rights on an equal basis with other children.

Suggested questions for the list of issues:

- Please provide the Committee detailed information on what steps are being taken to ensure the presence of the rights of children with disabilities in national policies on children, including concerning education, social protection and health care.
- What steps are being taken to promote the positive image of children with disabilities amongst government personnel, the public and families? What campaigns are being designed and led together with children with disabilities and their representative organisations in this direction?
- What steps are being taken in order to achieve comprehensive (i.e. physical, social, communicative and intellectual) accessibility for children with disabilities in all facilities/buildings/programmes designed for (being frequented by) children?
- Which measures are being taken in order to strengthen a self-determined life style of children with disabilities (e.g. entitlement to technical aids or personal assistance) in order to encourage them to develop their full personalities?

Abuse, neglect and violence against children, sexual exploitation (Articles 19, 34)

While meaningful empirical studies about **violence and abuse** of persons with disabilities have not been conducted in Austria, there is evidence from previous experiences that particularly children and girls with disabilities often become victims of violence and abuse including sexual abuse. This is partly a result of the fact that they are often accommodated and cared for in institutions and homes for children with disabilities which heightens their vulnerability.

A **prohibition of the sterilisation of minors** (which predominantly affects persons with disabilities) has been embodied through the Children's Law Amendment Act (Kindschaftsrechts-Änderungsgesetz, entered into force 1 July 2001) in Section 146(d) of the Austrian Civil Code. It states, "neither a child nor their parents are allowed to give their consent to medical measures that have the purpose of leading to the lasting infertility of the child." Real-life practices in terms of sterilization of persons with disabilities take place in a gray zone. There is a lack of official figures as well as a wide lack of adequate information and counselling services for the affected persons.

Recommendations:

- Address the heightened risk for children with disabilities, in particular girls, of becoming victims of violence and abuse, and adopt urgent measures to ensure that both services and information for victims are made accessible to children with disabilities living in institutions and the community. Take all the necessary measures for the prevention of abuse of and violence against children with disabilities, such as:
 - ensuring that children and caregivers know that the child is entitled as a matter of right to be treated with dignity and respect and they have the right to complain to appropriate authorities if those rights are breached, including actions to educate and raise awareness amongst children with disabilities in an accessible manner which is appropriate for their age ;
 - ensuring that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated, have a sensitive complaint mechanisms accessible to children with disabilities; and
 - enhancing precautionary measures against forced abortion and forced sterilisation.

Consideration of the Best Interests of the Child and Full Participation (Articles 3(1), 9(1), 12, 18(1), 21(1))

According to the guidelines of the Austrian Civil Law Code and the general Youth Welfare Laws, the best interests of the child are also considered in decisions regarding children with disabilities. However, especially in cases of massive intrusions into the lives of children, this is not always clearly visible (e.g. in the event of withdrawal of the parental custody). There is much need for improvement regarding children with disabilities being given the opportunity to express their views, be heard and participate in decisions concerning them, particularly children with intellectual disabilities. The right of a child to express their views in custody cases (e.g. the decision with which parent the child wants to stay) is only granted to children of 10 years and above.

Guidance counselling institutions exist for children and youth, such as the Children and Youth Ombudsman or various organisations and initiatives which are supposed to serve the strengthening of children's rights. However, there is a lack of information and counselling services that are specifically targeted at children and youth with disabilities in order to provide them with opportunities to express their concerns and needs independently. There is a general need for improvement regarding the **participation** in legal or political measures by children with disabilities.³

There is a **lack of meaningful statistical data** about the situation of children with disabilities. As a result, the need for improvement measures within various areas cannot be documented

³ Cf. single positive initiatives for the inclusion of children, such as, for instance, in the preparation of the National Action Plan for the Rights of Children and Youth. Available online at: www.kinderrechte.gv.at/home/upload/30%20oesterreich/nap_041123_ov.pdf.

sufficiently and recommendations can thus often not be considered or implemented accordingly.

Recommendations:

- Introduce measures in compliance with Article 12 CRC to ensure that children and young people in mental health settings have the right and opportunity to freely express their views on matters of treatment, services and support, and for their views to be given due weight in accordance with the age and maturity of the child, without any discrimination based on disability, and that they have access to age- and disability-appropriate support to exercise these rights.
- Introduce a central contact point for the comprehensive guidance counselling and information services for children with disabilities and their families
- Collect adequate data on children with disabilities, including girls with disabilities, and use disaggregated data and results of studies to develop policies and programmes to promote equal opportunities for them in society.

Suggested questions for the list of issues:

- What measures are being taken to ensure the effective collection of data and statistics on children with disabilities disaggregated by sex, age, region of residency and type of disability?
- With respect to decisions concerning the child him/herself, how does the Government ensure that children with disabilities have the opportunity to express their views and for their views to be given due weight in accordance with the child's age and maturity, on an equal basis with other children, and are provided with age- and disability-appropriate support to exercise these rights?

Family environment and alternative care (Articles 5, 18(1) and (2), 9-11, 19-21, 25, 27(4), 39)

Social support networks are often the best means to promote better parenting. In Austria, there is a tremendous lack of social conditions that enable parents with disabilities to live together with their child.⁴ There are **hardly any forms of support** for accompanying **persons with learning disabilities** during pregnancy or **parenthood**.

A further problem for parents with disabilities occurs with the **strict division of the responsibilities** of the involved bodies. Thus, disability assistance considers itself as being exclusively responsible for supporting mothers while the Youth Welfare Office, on the other hand, exclusively feels responsible for the well-being of the child. In reality, this inflexible distribution of authorities impedes a meaningful cooperation in terms of a common solution for all parties involved.

In practice, it can be observed that in many cases **taking away a child** is still **the preferred practice** based on the presumed best interests of the child instead of enabling a life within the family with adequate support services. As research has shown, this occurs despite the fact that mothers could care for their children with the adequate form of assistance.⁵ A survey conducted in 2008 in Vienna and Lower Austria showed that approximately half of the

⁴ Cf. Kassoume. 2006. Unterstützungsangebote bei Schwangerschaft und Elternschaft von Menschen mit Lernschwierigkeiten in Wien. MA Dissertation, 2006, <http://bidok.uibk.ac.at/library/kassoume-schwangerschaft.html#ftn.id2781150>.

⁵ Cf. Hahn. Sexuelle Erfahrungen von Frauen mit geistiger Behinderung, FN 74.

recorded children of parents with disabilities (51 percent) do not live with their parents.⁶ A placement with relatives, foster families, adoptive parents or in homes still seems to be the dominant practice (in comparison to making effective support services available for parents with disabilities).

Recommendation:

- Develop and strengthen community support services for parents of children with disabilities as well as for parents with disabilities (family assistance and parenting assistance) in order to ensure that children can remain within their families and homes.

Suggested question for the list of issues:

- What measures are being taken, including the provision of support services, to assist families, including both parents of children with disabilities and parents with disabilities, in their care for their children, and to prevent separation of children from their families?

Education, leisure and cultural activities (Article 28)

The present **Austrian educational system** does not provide for a right to inclusive education in Austrian legislation nor in practice.⁷ There is still a focus on the **integration concept** in its wording (which is the reason why the term “integration” will be used repeatedly hereinafter even though it is not in accordance with the wording and the concept of the CRC nor the CRPD.) While the concept of inclusion fully implements the social model of disability and acknowledges the inherent necessity to adapt the environment, the concept of integration is still based on the assumption that it is not basically the environment that needs to be changed but the person with disability who needs to adapt to the existing society. Means of integration are special measures targeted at persons with disabilities (e.g. extra-classes for pupils with disabilities in a mainstream school) in order to “integrate them” into the existing environment.

The Austrian educational system is still highly marked by the **prevalence of special educational needs institutions**, such as the therapeutic pedagogic kindergarten, special schools, homes and other institutions that lead to the **segregation and exclusion of children with disabilities**. In this context, children with disabilities are massively disadvantaged, inter alia due to their exclusion from the compulsory free year of kindergarten as well as due to the failure of a legal entitlement to an integrated form of instruction after the eighth grade. Therefore, children with disabilities do not have the same opportunities to education as children without disabilities and consequently, they are highly disadvantaged in participating in vocational trainings, obtaining employment and with respect to their overall plans for life.

The **obligation under the Convention to make education available and accessible to every child** (Article 28(1)(b)) must be understood in light of the obligations under Article 24 of the CRPD to ensure an **inclusive education** system at all levels.

The existing special school system and the integration concept have been embodied as **equivalent systems**. The extent and the form of integration highly depend on the regions (Laender) which has resulted in the development of very different practices. On the whole, inclusive education in the sense of the inclusion of children with disabilities alongside non-disabled peers in schools has not been realised thus far. Among others, this is reflected by

⁶ Cf. Kastlunger. Die Lebenssituation und die Unterstützungssituation von Müttern mit Lernschwierigkeiten, FN 64, pp. 96.

⁷ Cf. Statement by the Independent Monitoring Committee about inclusive education of 10 June 2010, http://www.monitoringausschuss.at/cms/monitoringausschuss/attachments/2/8/6/CH0914/CMS1276526308845/ma_sn_bildung_final.pdf.

the distinctly lower number of persons with disabilities who have completed their A-levels or university degrees compared to persons without disabilities.⁸

Children with disabilities are granted **special educational support** if they are recognised as having **special educational needs (SEN)**.⁹ Problematically, the assessment of SEN is not standardised and it often causes schools to obtain as many SEN-labels as possible in order to receive as many resources as possible.¹⁰ Thus, an enormous dispersal of SEN rates can be perceived.¹¹ However, staff resources are not allocated according to the actual number of children with SEN.

In the school year of 1993, **Special Education Centers (SEC)** were legally incorporated.¹² Special educational measures were introduced and coordinated in a way that opened up the possibility for children with SEN to also be taught at mainstream schools. Paradoxically, SECs are supposed to support the educational integration of children with disabilities, while, on the other hand, they should fulfil the duties of a special school. For years, DPOs have been requesting the conversion of Special Education Centers into Education Centers. The objective of Education Centers would be to systematically support schools in the optimum fostering of all students through individualised measures adapted to the student.¹³

In most regions **neither the entitlement to a comprehensive parallel provision of special needs education, nor the freedom of choice for parents is realised**.¹⁴ Full-time schools and full-time care services hardly exist in the integrated area (where children with and without disabilities are not separated) which is why parents are often obliged to opt for enrolment at a special school (which is usually full-time).

The quality of education at **special schools** is often criticized by parents of children with severe impairments. They argue that in some cases regression with respect to cognitive and social development of their children becomes evident. In many cases, teaching in **integrated classes** is neither satisfactory. Students with SEN are mostly taught in separate classrooms whereas the presence in the main class is limited to a minimum time. Team teaching does not work successfully in many classes, and furthermore, the use of new forms of teaching often fails due to a lack of willingness by teachers.¹⁵

Another weak point the educational system is the **lack of inclusive teacher training** in Austria and a massive **lack of inclusive educational teaching staff**.

There is a lack of **reasonable accommodation** in order to implement the rights of children with disabilities in the Austrian education system, as well as a lack of **individual support measures**.

⁸ According to Mikrozensus 2007, only 14.6 percent of men and 15.7 percent of women with disabilities have obtained A-level or university degrees, in comparison to 31.3 percent of men and 33.3 percent of women without disabilities.

⁹ Such a need for support exists if a student is – due to a physical or psychosocial disability – not able to follow the instruction at primary or middle school or at Polytechnic School without SEN, and if he or she is not exempted from school attendance according to Section 15 of the Compulsory Education Act 1985 (Schulpflichtgesetz 1985).

¹⁰ Cf. Feyerer, FN 85, p. 90.

¹¹ SEN rates differ from 2.58 percent up to 4.43 percent depending on the region (Land).

¹² According to the 15th Amendment to the School Organization Act

¹³ Specht et al. 2006. Qualität in der Sonderpädagogik: Ein Forschungs- und Entwicklungsprojekt. Forschungsansatz, Ergebnisse und Schlussfolgerungen. No. 70, 2006, p. 58. Graz: Zentrum für Schulentwicklung.

¹⁴ Cf. Feyerer, FN 85, p. 88.

¹⁵ Cf. Engl, FN 94, p. 47.

The availability of **personal school assistants for pupils** during the years of compulsory schooling is uneven across Austria and depends on the guidelines of each region (Land). Most regions do not offer any specific regulations or practical implementation is missing. The situation on Upper Austria can be seen as a positive exception. In the integrated teaching of Upper Austria, the provision of personal school assistance is quite common.¹⁶

Finally, instruction in **alternative forms of communication** (e.g. sign language, Braille, etc.) is not adequately guaranteed. **Austrian Sign Language**, while formally recognised in the Austrian Constitution (§8(3)), is hardly used as a language of instruction. Section 16 of Schulunterrichtsgesetz (School Education Act) foresees only German as the teaching language. Sign language is not mentioned in the sense of bilingual teaching.¹⁷ To what extent sign language is used as a teaching language, depends on the willingness (and sign language skills) of the teachers - even in "integration classes" and in special schools for deaf children, sign language is not very often used and even opposed by teachers and parents. Furthermore, there is an inadequate provision of resources (e.g. technical aid devices) and insufficient qualified teaching staff. On the one hand, there are not enough staff resources (that is, teachers who possess sign language competencies). On the other hand, the broad application of the Austrian Sign Language as a language of instruction often fails due to social barriers (a lack willingness by the school administration in terms of integrated classes or special school classes for deaf children as well as a negative discourse about sign language in general). The acquisition of alternative forms of communication, such as **Braille** and **sign language** are also necessary to acquire **life and social development skills** which represent central conditions for an independent and self-determined life. Presently, Braille can only be learned at special schools and teaching material is neither prepared nor provided to a sufficient extent.

All in all, one can maintain that there is **no concrete evidence of progress towards full inclusion in the Austrian educational system**. This results from the maintenance of the parallel system (integrated classes and special schools) and the current increase in authority by the general special school from eight to nine grades.¹⁸

Recommendations:

- Incorporate a right to inclusive education in the Federal Constitution and in the law across all laender, and ensure that an inclusive educational approach is developed and implemented in Austria, as opposed to integration, in collaboration with organisations of persons with disabilities.
- Adopt the following measures:
 - Include inclusive education as an integral part of core teacher training curricula in universities to ensure that the values and principles of inclusive education are infused at the outset of teacher training and teaching careers of *all* teachers.
 - Render it compulsory for teachers to develop individual education plans for all students (both with or without disabilities);
 - Ensure the availability of individual supports such as technical equipment, accessories and aids with schools, including the provision of a personal assistant within school if necessary;

¹⁶ In Upper Austria, school assistants are closely integrated into the school system. They enable students with disabilities to participate in a common life and to achieve the objectives of the curriculum. Furthermore, they contribute fundamentally to the success of scholastic and integrative work.

¹⁷ Austrian Sign Language is only mentioned in a regulation by the Federal Ministry of Education, Art and Culture called "Curriculum of the Special School for Deaf Children".

¹⁸ Feyerer. 2009. Ist "Integration" normal geworden? In: Zeitschrift für Inklusion, No. 2, 2009, pp. 7. Available online at: <http://www.inklusion-online.net/index.php/inklusion/article/view/19/25>.

- Ensure accessibility both in terms of the physical environment and with respect to communication, the curricula and pedagogical materials;
- Ensure the inclusion of hard of hearing and deaf children by having sign language interpreters placed into mainstream schools and formally include sign language as a language of instruction in mainstream schools with basic training on sign language for all teachers;
- Promote the teaching of disability rights awareness in schools.
- Take steps to transform **Special Education Centers into Education Centers** for all children (adequate pedagogical skills as well as material and staff resources should benefit *all* children (both children with and without disabilities) at mainstream schools)

Suggested questions for the list of issues:

- What steps are being taken to incorporate a definition of inclusive education into the law and to transform current integrative policies and practices into *inclusive* policies and practices for children with disabilities into mainstream schools?
- What measures are being taken to guarantee the implementation of inclusive education in the law and practice? What steps are being taken to ensure the obligatory training of all teachers (beyond special education teachers), compulsory individual education plans for all students, the availability of assistive devices and support in classrooms, accessibility of educational materials and curricula, accessibility of physical school environments, encouragement of the teaching of sign language and disability culture, and allocation of budget for all of the above?
- How many special schools (or special education centers) have been transformed into inclusive schools for all (or education centers for all), and are resources currently being invested to build new special schools?

Basic health and welfare (Articles 6, 23, 24, 26, 27)

In the **area of health care**, children with disabilities are often disadvantaged because Early Childhood Intervention (ECI) is not equally distributed at the regional (Laender) level. In case of an assumed impairment during infancy, children often have to wait for a period of up to three months to receive a standardised diagnosis and afterwards up to two years to receive appropriate therapy or a grant because there are not enough programs for early detection and early childhood intervention. Likewise, there is a lack of child-specific regulations for medical evaluations that form the basis of the entitlement to support benefits, such as in the assessment of the need for long-term care for the purposes of receiving care allowances.

Habilitation and rehabilitation are the first significant steps to ensure that children with disabilities are able to lead an independent life, to be mobile and to reach their full potential and participate in society. The Austrian Ombudsman (Volksanwaltschaft) has voiced criticism about the insufficient rehabilitation of children in its 2009 Annual Report. The authors of the report state, inter alia, that “Chronically ill children and youth, who suffer from the consequences of an accident, experience [...] medical and psychological states of emergency. Rehabilitation clinics that are especially designed for the needs of such children and youth and their families, do not exist in Austria so far. [...] There are estimates that approximately 185 beds will be needed for the rehabilitation of children and youth until 2020 in Austria. Presently, there is no comprehensive care with educational and psychological support for children and youth in Austria. Furthermore, there is no specific regulation on the conditions for the entitlement to rehabilitation services for children. Due to a lack of special service provision in Austria, health insurers occasionally offer financial support for stays at special clinics abroad. For many families, this is not an option. [...] For the affected persons it is a disadvantage that, since 1992, the approval of rehabilitation measures is merely a so-called compulsory task for health insurers. This means that they are obliged to provide

rehabilitation measures, however, this obligation is not related to an individual legal claim to services.”¹⁹

Recommendations:

- Undertake a review of rehabilitation services for children across the country together with organisations of persons with disabilities; establish a mechanism to regularly review the effectiveness of all rehabilitation services to identify gaps in the quality, number and diversity of services.
- Take steps to standardise and increase programs for the appropriate early detection and Early Childhood Intervention (ECI) for children with disabilities
- Adopt measures to ensure that all information, education, healthcare and services relating to sexual and reproductive health are made accessible to boys and girls with disabilities, in age-appropriate formats and that they are respectful of the dignity and integrity of persons with disabilities based on the free and informed consent of the individual concerned.

Suggested questions for the list of issues:

- What steps are being taken to adopt measures to ensure that the mental health policy requires all health care and services to be based on the free and informed consent of the person concerned and that involuntary treatment and confinement are not permitted by law?
- What steps are being taken to review and standardise programmes of appropriate early detection and Early Childhood Intervention for children with disabilities ensured in consultation with organisations of persons with disabilities?

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¹⁹ Cf. Jahresbericht der Volksanwaltschaft 2009, Kurzbericht, p. 27.
<http://www.volksanw.gv.at/aktuelles/presse/jahresbericht-2009-praesentiert>.

OeAR, EDF & IDA suggested questions for the List of Issues:

Articles 3(1), 9(1), 12, 18(1), 21(1)

- What measures are being taken to ensure the effective collection of data and statistics on children with disabilities disaggregated by sex, age, region of residency and type of disability?
- With respect to decisions concerning the child him/herself, how does the Government ensure that children with disabilities have the opportunity to express their views and for their views to be given due weight in accordance with the child's age and maturity, on an equal basis with other children, and are provided with age- and disability-appropriate support to exercise these rights?

Article 28

- What steps are being taken to incorporate a definition of inclusive education into the law and to transform current integrative policies and practices into *inclusive* policies and practices for children with disabilities into mainstream schools?
- What measures are being taken to guarantee the implementation of inclusive education in the law and practice? What steps are being taken to ensure the obligatory training of all teachers (beyond special education teachers), compulsory individual education plans for all students, the availability of assistive devices and support in classrooms, accessibility of educational materials and curricula, accessibility of physical school environments, encouragement of the teaching of sign language and disability culture, and allocation of budget for all of the above?
- How many special schools (or special education centers) have been transformed into inclusive schools for all (or education centers for all), and are resources currently being invested to build new special schools?

Articles 3(1), 9(1), 12, 18(1), 21(1)

- What measures are being taken, including the provision of support services, to assist families, including both parents of children with disabilities and parents with disabilities, in their care for their children, and to prevent separation of children from their families?

Articles 4, 42, 44(6)

- Please provide the Committee detailed information on what steps are being taken to ensure the presence of the rights of children with disabilities in national policies on children, including concerning education, social protection and health care.
- What steps are being taken to promote the positive image of children with disabilities amongst government personnel, the public and families? What campaigns are being designed and led together with children with disabilities and their representative organisations in this direction?
- What steps are being taken in order to achieve comprehensive (i.e. physical, social, communicative and intellectual) accessibility for children with disabilities in all facilities/buildings/programmes designed for (being frequented by) children?

- Which measures are being taken in order to strengthen a self-determined life style of children with disabilities (e.g. entitlement to technical aids or personal assistance) in order to encourage them to develop their full personalities?

Articles 6, 23, 24, 26, 27

- What steps are being taken to adopt measures to ensure that the mental health policy requires all health care and services to be based on the free and informed consent of the person concerned and that involuntary treatment and confinement are not permitted by law?
- What steps are being taken to review and standardise programmes of appropriate early detection and Early Childhood Intervention for children with disabilities ensured in consultation with organisations of persons with disabilities?

OeAR, EDF & IDA suggested recommendations for the Concluding Observations:

Articles 4, 42, 44(6)

- Ensure the mainstreaming of children with disabilities in all legislative and policy action for children, and promote the full inclusion and participation of children with disabilities and their representative organisations in decision making and policy making affecting them.
- Undertake awareness raising campaigns aimed at the government, public and families to promote the positive image of children and adults with disabilities and their role as active participants and contributors to society.
- Adopt measures for strengthening a self-determined lifestyle of children with disabilities (e.g. entitlement to technical aids or personal assistance) in order to encourage them to develop their full personalities and exercise all their rights on an equal basis with other children.

Articles 19, 34

- Address the heightened risk for children with disabilities, in particular girls, of becoming victims of violence and abuse, and adopt urgent measures to ensure that both services and information for victims are made accessible to children with disabilities living in institutions and the community. Take all the necessary measures for the prevention of abuse of and violence against children with disabilities, such as:
 - ensuring that children and caregivers know that the child is entitled as a matter of right to be treated with dignity and respect and they have the right to complain to appropriate authorities if those rights are breached, including actions to educate and raise awareness amongst children with disabilities in an accessible manner which is appropriate for their age ;
 - ensuring that institutions providing care for children with disabilities are staffed with specially trained personnel, subject to appropriate standards, regularly monitored and evaluated, have a sensitive complaint mechanisms accessible to children with disabilities; and
 - enhancing precautionary measures against forced abortion and forced sterilisation.

Articles 3(1), 9(1), 12, 18(1), 21(1)

- Introduce measures in compliance with Article 12 CRC to ensure that children and young people in mental health settings have the right and opportunity to freely express their views on matters of treatment, services and support, and for their views to be given due weight in accordance with the age and maturity of the child, without any discrimination based on disability, and that they have access to age- and disability-appropriate support to exercise these rights.
- Introduce a central contact point for the comprehensive guidance counselling and information services for children with disabilities and their families.
- Collect adequate data on children with disabilities, including girls with disabilities, and use disaggregated data and results of studies to develop policies and programmes to promote equal opportunities for them in society.

Articles 5, 18(1) and (2), 9-11, 19-21, 25, 27(4), 39

- Develop and strengthen community support services for parents of children with disabilities as well as for parents with disabilities (family assistance and parenting assistance) in order to ensure that children can remain within their families and homes.

Article 28

- Incorporate a right to inclusive education in the Federal Constitution and in the law across all laender, and ensure that an inclusive educational approach is developed and implemented in Austria, as opposed to integration, in collaboration with organisations of persons with disabilities.
- Adopt the following measures:
 - Include inclusive education as an integral part of core teacher training curricula in universities to ensure that the values and principles of inclusive education are infused at the outset of teacher training and teaching careers of *all* teachers.
 - Render it compulsory for teachers to develop individual education plans for all students (both with or without disabilities);
 - Ensure the availability of individual supports such as technical equipment, accessories and aids with schools, including the provision of a personal assistant within school if necessary;
 - Ensure accessibility both in terms of the physical environment and with respect to communication, the curricula and pedagogical materials;
 - Ensure the inclusion of hard of hearing and deaf children by having sign language interpreters placed into mainstream schools and formally include sign language as a language of instruction in mainstream schools with basic training on sign language for all teachers;
 - Promote the teaching of disability rights awareness in schools.
- Take steps to transform **Special Education Centers into Education Centers** for all children (adequate pedagogical skills as well as material and staff resources should benefit *all* children (both children with and without disabilities) at mainstream schools)

Articles 6, 23, 24, 26, 27

- Undertake a review of rehabilitation services for children across the country together with organisations of persons with disabilities; establish a mechanism to regularly review the effectiveness of all rehabilitation services to identify gaps in the quality, number and diversity of services.
- Take steps to standardise and increase programs for the appropriate early detection and Early Childhood Intervention (ECI) for children with disabilities
- Adopt measures to ensure that all information, education, healthcare and services relating to sexual and reproductive health are made accessible to boys and girls with disabilities, in age-appropriate formats and that they are respectful of the dignity and integrity of persons with disabilities based on the free and informed consent of the individual concerned.