

Universal Periodic Review - Austria
Submission of Austrian Association of the Deaf
for the 23rd session of the UPR working group

Introduction

The present submission was developed by Austrian Association of the Deaf supported by seven regional organizations¹. The submission from the year 2011 was carried by the Austrian Association of the Deaf assisted by those organizations.

The submission focuses on the implementation status about the progress of implementation of international obligations relating to important issues for deaf people especially language and cultural rights.

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Summary

The last Universal Periodic Review for Austria included an explicit reference to persons with disabilities and minorities. However, Austria had taken too few concrete steps to improve the situation of deaf people as language minority.

Austrian Sign Language, or *Österreichische Gebärdensprache (ÖGS)*, was recognised by the Austrian Parliament in 2005. Article 8 (3) states as follows: "Austrian Sign Language is recognised as independent language. The laws will determine the details." The Austrian Sign Language community as a national and autochthonous language minority hoped that this recognition would lead to measures which had already been taken for speaking autochthonous Austrian minority languages: promotion of Austrian Sign Language, language rights in the area of education, mainly minority rights, the right to free use of Austrian Sign Language in government authorities, cultural rights, protection against discrimination for language minority, training of qualified pedagogical staff, introduction of Austrian Sign Language as a study subject.

Although some improvements were made for the Austrian Sign Language community who uses a visual language. The legislator has not yet defined any rules for Austrian minority using sign language. In contrast to Austrian Sign Language minority, language and cultural rights have already been granted to Ethnic Groups (*Volksgruppen*) in Austria who use spoken minority languages (Hungarian, Slovenian and Croatian) especially in the area of education.

Various measures listed in the National Action Plan (NAP) on Disability 2012-2020² cannot be achieved adequately without granting of rights to language minority in Austria who uses sign language.

¹ The Austrian Association of the Deaf (*Österreichischer Gehörlosenbund, ÖGLB*) represents seven regional organizations for deaf people: Association of the Deaf in Lower Austria (*Niederösterreich*), Upper Austria (*Oberösterreich*), Salzburg, Tyrol (*Tirol*), Styria (*Steiermark*) and Carinthia (*Kärnten*) respectively Vorarlberg (*Vorarlberger Gehörlosen-Treff*). More informations: www.oeglb.at

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http://www.sozialministerium.at/site/Soziales/Menschen_mit_Behinderungen/Nationaler_Aktionsplan_Behinderung_2012_2020/

I. Legal and institutional framework

A. International commitments

It is welcome that the withdrawal of reservations regarding the Convention on the Rights of the Child has been announced. Ratification of third optional protocol to the CRC and adoption of Convention against Discrimination in Education is still pending.

- Ratification of third optional protocol to the Convention on the Rights of the Child
- Adoption of Convention against Discrimination in Education

B. Constitutional and legal framework

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage has been ratified in Austria in 2009. Since 2013 Austrian Sign Language forms part of the UNESCO Intangible Cultural Heritage in Austria.³ Despite the fact Austrian Sign Language is recognized in the Federal Constitution, Rights of the Austrian Sign Language community as fixed defined Austrian national other language minority are not implemented. Austria has ratified most treaties with a series of reservations and not fully implemented.

- Withdrawal of reservations to UN treaties (partially fulfilled, see also CRC)
- Suspension of reservation of implementation (*Erfüllungsvorbehalt*) according to Article 50(2) Constitutional Act (B-VG)
- Comprehensive implementation: Universal Declaration of Human Rights (Article 2, 3, 7 and 27); Convention on the Rights of the Child (Article 2 and 30); Convention on the Rights of Persons with Disabilities (Article 21e, 24 and 30(4)); International Covenant on Civil and Political Rights (Article 27); Framework Convention for the Protection of National Minorities (Article 14); Recommendation 1598 (2003) of Council of Europe regarding Protection of sign language in the member states of the Council of Europe⁴; European Charter for Regional or Minority Languages (Article 1c)⁵; Recommendation 1201 (1993) and draft additional protocol on the rights of national minorities to the European Convention on Human Rights

C. Institutional human rights structures, political measures

The National Action Plan on Disability 2012-2020 was not adequately coordinated with federal provinces (*Bundesländer*) and provides insufficient budgetary resources. A National Action Plan on Human Rights is provided in the government program.

- Transparent consultation of civil society in the preparation of the NAP Human Rights
- Improvement of the NAP on Disability with consultation of federal provinces and taking account of the recommendations of UN committee on the CRPD

II. Implementation of international human rights commitments

A. Rule of Law

Austria does merely grant his sign language minority the right to free use of Austrian Sign Language in public institutions and authorities and at court hearings (code of civil and criminal procedure). Those minority rules for the Austrian Sign Language community were not adopted:

- Right to exist (protection against assimilation, right to preservation of identity),
- Right to specific protection against discrimination and equal treatment of minorities⁶, which means there is no genuine protection on individual-legally basis, so therefore it must be

³ <http://nationalagentur.unesco.at/cgi-bin/unesco/element.pl?eid=107&lang=en>

⁴ <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta03/EREC1598.htm>

⁵ <http://conventions.coe.int/Treaty/en/Treaties/html/148.htm>

⁶ cf. Article 63(1), 66(1), 67 State Treaty of Saint Germain

completed by

- Right to equal protection of disadvantaged groups (collective rights) as well as
- Right to a special protection (to compensate for the disadvantage of minority) for ensuring intended legal and effective equality.

As mentioned before, the fundamental right to a special protection should contain following compensation rights and thus conservation and promotion rights on cultural, political and economic development:

- Extension of constitutional protective rule for minorities to all national respectively linguistic and cultural minorities (Article 8(2) Constitutional Act B-VG)
- Suspension of legal reservation (Article 8(3) Constitutional Act B-VG)
- Establish an advisory council to advise the Federal Government and Federal Ministers in matters of Austrian Sign Language
- Involvement in national reports concerning minority languages (Shadow reports of NGOs to implement the rights derived both from the Framework Convention for the Protection of National Minorities and from the European Charter for Regional or Minority Languages)
- Enactment of linguistic and cultural rights of Austrian Sign Language community in a fundamental rights catalogue or new codification in a constitutional act and a new Act on Austrian Sign Language as implementation act

B. Right on Accessibility (*Barrierefreiheit*)⁷

1. Only 80-90 interpreters are supposed to cover 10.000 deaf people.⁸
 2. No assurance of qualifications and quality of the translations of active interpreters for Austrian Sign Language (including those for court and police), particularly in specialized areas.
 3. No single nationwide regulatory and legal right to reimbursement of sign language interpreter services.
 4. No legal right for disadvantage compensation using technical aids for all age groups.⁹
 5. No free choice of sign language interpreter in civil and criminal procedures or in notarial procedures is guaranteed.
 6. Regional television programs of nine federal provinces (*Bundesland Heute*) are broadcasted by Austrian Broadcasting Corporation (*ORF*) without subtitles. No television programs with subtitles or Austrian Sign Language are broadcasted by private channels.
- Right to own media and to promote access to information (in Austrian Sign Language as mother tongue/first language; access to mass media; television programs in Austrian Sign Language; subtitling)
 - Implementation of uniform rules concerning interpreting in Austrian Sign Language
 - Legal right for disadvantage compensation (technical aid e.g. alarm clock with flashing and vibration function, smoke detector with visual signal, etc.)

C. Right on Education¹⁰

7. Despite the revision of the education acts in 1993, concerning the integration concept, deaf, hard of hearing and deafblind children, adolescents and adults are faced with structural

⁷ cf. Art. 9(2e) CRPD.

⁸ Source from Association of the Deaf in Upper Austria, www.gehorlos-ooe.at

⁹ cf. Art. 28(b) CRPD.

¹⁰ cf. Art. 24 CRPD.

discrimination as well as linguistic and pedagogic barriers.¹¹ Austrian Sign Language as a language of instruction is extremely rare. The usual learning process for deaf and hearing-impaired children and young people with no sign language takes place in integration classes.

8. Educators working in kindergartens or schools for deaf children are not officially required to have language skills in Austrian Sign Language.¹²
9. Only a very small percentage estimates their own knowledge in German as sufficient.¹³ Only about 100 deaf people have passed their school leaving exam. Only about 30 deaf people have finished their studies at university.

Early childhood education, care and education (0 – 6 years)

10. For parents of deaf children, no state promoting and funding measures for language classes in Austrian Sign Language, which would allow them to communicate as early as possible with their children, exists.
11. With only one exception in Vienna, there is no inclusive kindergarten in Austria, which employs a deaf kindergarten educator to be able use Austrian Sign Language. Deaf children are therefore not able to communicate with any deaf adult in the kindergarten in order to maintain their own culture and use sign language.¹⁴
12. Even kindergartens who offer Austrian Sign Language are very rare. Almost exclusively hearing persons are employed. No state exam on the language skills in Austrian Sign Language is provided.
13. Many deaf children start school with inadequate knowledge of skills in sign language and a lack of linguistic and cultural identity.

Compulsory school (6 – 14 years)

14. Since 1993¹⁵ parents of children with disabilities have the opportunity to choose between following kinds of schools for their children: primary school, school of general education (lower grade), secondary school, Cooperative Middle School, "New Secondary School" and special school. Regardless of the choice of school, parents of deaf children who prefer bilingual education¹⁶ are often forced to become active and to organize bilingual classes for their children themselves.
15. Since September 2008, for the first time, Austrian Sign Language is established in curriculum for special schools for deaf children. It has no effect, because there are not enough human resources (teachers with sign language skills) for bilingual-integrative education available. It also fails due to a lack of willingness of the school-management concerning special schools for deaf children.
16. Teachers can take part in an extra-occupational Austrian Sign Language class, which only last for 75 hours, and they do not have to take an exam to prove their language skills. Also, it is not even obligatory for them to take Austrian Sign Language classes. Against one's better

¹¹ Discrimination reports of the Austrian Sign Language community, Austrian Association of the Deaf (2004, 2005, 2007/2008)

¹² *Sprache macht Wissen. Zur Situation gehörloser und hörbehinderter SchülerInnen, Studierender und ihrer LehrerInnen, sowie zur Österreichischen Gebärdensprache in Schule und Universität Wien.* Final report of the research project. Krausneker V., Schalber K. (2006/2007).

¹³ In 2002 60% of 30 questioned women denote their knowledge of German as an insufficient and stated that they had problems at reading and writing. This is a direct result of the school, because all the deaf women said that they would have preferred to get education in sign language in order to be able to properly learn German; *Projekt VITA, Erkundungsstudie zur beruflichen Lebenssituation von gehörlosen Frauen im Raum Wien und Umgebung*, Breiter M. et al., 2002, S. 66

¹⁴ cf. Art. 3(h), 24(3b) and 30(4) CRPD; Art. 29(1), 30 CRC; Art. 27 ICCPR; Art. 2(3), 10, 11 Convention for the Protection and Promotion of the Diversity of Cultural Expressions.

¹⁵ In 1993, the School Organisation Act (SchOG) was amended such as the connected federal laws like Education Act (SchUG), Compulsory Education Act (SchPflG) and the public services law for teachers.

¹⁶ In the sense of additive bilingual development and language acquisition in Austrian Sign Language and German.

judgement, teachers without any or low knowledge of Austrian Sign Language or Deaf Culture can be employed.

17. The Ministry of Education has recognized that Austrian Sign Language has to become the language of instruction.¹⁷ However, it is not yet established in education policy.

Equal access to general higher education, vocational training, adult education and lifelong learning (from 14 years)

18. The access is hindered due to missing legal basics as well as e.g. admission criteria, individual assistance measures or internal attitude of managing and teaching persons in school and university education towards capabilities of deaf people and sign languages, etc.
19. There is no equal access to university education; the majority of the fields of studies are riddled with communication barriers.

→ Implementation of the right to bilingual education respectively inclusive education in line with Article 24 CRPD

→ Recognition of Austrian Sign Language as a language of instruction¹⁸

D. Right to social security and right to an adequate standard of living and right to work¹⁹

20. A predominantly large group of deaf and hearing impaired people has only slim chances to live a satisfactory working life due to of the deficiencies in the educational system. Unemployment among deaf and hearing impaired people is far higher than among other people. Their promotion prospects are generally quite low.

21. For nearly all employers the main reason for not recruiting or dismissing deaf employees is the fact that they cannot express themselves auditory-verbally and cannot communicate via telephone.

22. Deaf and hearing impaired people are severely discriminated²⁰ in education (compulsory and further education) and measures of retraining. Only very few have the opportunity to access training.

23. Austrian Sign Language is not considered as an admission criterion in general.²¹ A positive exception in this respect is § 51(2c) Higher Education Act (*Hochschulgesetz*). Most relevant laws and regulations for studies and work require the skills "speech and vocal performance" (German language), "physical" fitness, "mental" and "sanitary" applicability from the affected candidates. The word "language" means spoken languages only. These regulations affect the fields of healthcare and social professions, such as nurses, geriatric nurses, midwives, graduated nurses, masseurs, home helpers, child care workers, pedicurists and professions in the educational field in kindergarten, but also areas of studies in the artistical field like acting and stage direction (Performing Arts) etc.

→ General admission to the profession education for alle persons with a first language other than German or with a disability in line with the Disability Discrimination Act (*Behindertengleichstellungsgesetz*). In the course of study or training appropriate compensatory measures

¹⁷ Federal Minister for Education, Mrs. Claudia Schmied in *Ö1-Morgenjournal*, February 14, 2009.

¹⁸ cf. Art. 68(1) State Treaty of Saint Germain

¹⁹ cf. Art. 27 CRPD.

²⁰ cf. Comment of the Independent Monitoring Committee on Education, 2010.

²¹ cf. Art. 2 CRPD.