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1. Introduction

(1) This submission has been jointly compiled by *Global Responsibility, DKA Austria, Light for the World International*, the *Network Social Responsibility* and *FIAN Österreich*. It analyses the state of affairs of Austrian Development Cooperation (ADC) and Humanitarian Aid with regard to human rights as well as compliance with international human rights obligations and aspects of corporate responsibility.

(2) Against the background of the COVID-19 pandemic, severe health, social and economic challenges are experienced worldwide. The pandemic also shows how vulnerable our systems are and how dependent we are on one another in our interconnected world. Also, human rights abuses have been taking place under the excuse of handling the pandemic as well as a rolling back of humanitarian aid and cancellation of calls for long-term international aid, cooperation and programs in some countries. This goes hand in hand with different experiences across countries with regard to civic space.

(3) These observations and developments are especially relevant with regards to the respect for human rights and human dignity. They highlight the importance - more than ever before - to work together in rebuilding a stronger health, social, environmental and economic system in Europe and beyond - in countries of the Global South - to realise human rights.

2. Framework for the implementation of international human rights obligations

(4) Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights stipulates “international aid and co-operation” as a means for realizing economic, social and cultural rights through the member states.¹ In order to benefit from international aid and cooperation, however, developing countries require support from countries like Austria.

(5) The legal framework for ADC is the Federal Development Cooperation Act of 2002, amended in 2003 (FDCA)². Amongst others, it enshrines the promotion of human rights³ as one of its main objectives. The central development policy positions and the strategic framework are defined in the Three-Year Programmes (TYP) on Austrian development policy. ADC is implemented by the Austrian Development Agency (ADA), several Ministries and other public actors.

(6) The guiding principle concerning policy coherence for development is formulated as follows: “The Federal Government, in the fields of policy it pursues that may have effects on developing countries, shall take into consideration the objectives and principles of development policy.”⁴ Overall responsibility for implementation lies with the respective Ministry; the Minister for Europe, Integration and Foreign Affairs is responsible for coordination of development cooperation⁵. One additional guiding principle for their work is to pursue a human rights based approach in all its projects, programmes and political dialogues.⁶

(7) In order to realise international commitments through the ADC, Austria received the recommendation to bring Official Development Assistance (ODA) up to the internationally committed 0.7% of Gross National Income (GNI) in the course of the first Universal Periodic Review (UPR) in 2011⁷ as well as the second UPR in 2015⁸. Since then, the Austrian share of ODA further

¹ UN General Assembly: International Covenant on Economic, Social and Cultural Rights (1966) [English].

² [Entwicklungszusammenarbeitsgesetz inkl. EZA-Gesetz-Novelle 2003](#), BGBl 65/2003 [German].

³ Ibid.: Section 1, Para 3.

⁴ Ibid.: Section 1, Para 5.

⁵ Ibid.: Section 28.

⁶ BMEIA: [Gemeinsam. Für unsere Welt. Dreijahresprogramm der österreichischen Entwicklungspolitik 2019 bis 2021](#) (2018): p. 5 [German].

⁷ UN General Assembly, Human Rights Council: [Report of the Working Group on the Universal Periodic Review: Austria](#), A/HRC/17/8 (2011): Recommendation: 93.33 [English].

declined from 0.30% in 2017 to 0.27% in 2019.⁹ However, the work program of the Austrian Government for 2020 to 2024¹⁰ recently reiterated its commitment to ODA spending by foreseeing a gradual increase to reach the 0.7% GNI commitment - a step which was also recently recommended by the OECD Development Assistance Committee (DAC)¹¹ or CONCORD - the European Confederation of Relief and Development NGOs - in its latest AidWatch Report.¹²

(8) As ODA decreased by 5% between 2017 and 2018¹³, poverty reduction which is at the centre of the FDCA¹⁴ and quite prominently mentioned in TYPs before 2015, we note that the commitment towards it is less prominent in the current program.¹⁵ Even though the poorest and most marginalised people live in Least Developed Countries (LDC), the ADC share of ODA in LDC indicates a continuous decrease – only 11.5% of total bilateral ODA in 2017/2018¹⁶ while the DAC average remains at 23.6%.¹⁷ In 2018, Austria provided only 0.07% of its GNI to LDC.¹⁸ At the same time the share of 27% of Austrian ODA going to LDC also remains lower than the DAC average of 31%.¹⁹ Similarly, the 17% share of country programmable aid in 2018 remained far below DAC average of 49%.²⁰

(9) Overall funding for humanitarian aid also fell: from € 52 million in 2017 to € 22.5 million in 2018 after slightly recovering back to 36.07 million in 2019.²¹ Particularly, the Austrian Foreign Disaster Relief Fund (AFDRF) as part of the overall humanitarian aid budget continued to be poorly endowed. For 2019 only € 15 million were budgeted. According to a budget prognosis of the Austrian Ministry of Finance, . in 2020 the AFDRF was increased to € 25 million for 2020.²² Hence, the general net disbursements for bilateral humanitarian aid remain substantially low in relation to other OECD countries.²³ As the current work program of the Austrian Government declares a “substantial increase of disbursements for humanitarian aid” and foresees the development of a strategy for humanitarian aid²⁴, there might be an opportunity to re-emphasize the country’s efforts on the reduction of need, risk and vulnerability in crisis response as part of integrating development cooperation and humanitarian aid more thoroughly. The need for such a humanitarian-development-peace nexus has also been pointed out in the latest OECD DAC Peer Review Report.²⁵

(10) As part of the national response to the COVID-19 pandemic, in July 2020 the Austrian Government announced aid measures for the non-profit sector. According to the guidelines, development organisations will be eligible for grants and partial reimbursement of costs as a result of the pandemic.²⁶ This step signals a positive step towards including civil society organisations in the

⁸ UN General Assembly, Human Rights Council: [Report of the Working Group on the Universal Periodic Review: Austria](#), A/HRC/31/12 (2015): Recommendations 139.130, 139.131, 139.132, 139.133 [English].

⁹ OECD-Website: [Total flows by donor](#): Donor: Austria, Amount type: Current prices (2019) [English].

¹⁰ Bundeskanzleramt Österreich: [Work program of the Austrian Federal Government 2020-2024](#) (2020): p. 187 [German].

¹¹ DAC: [OECD Development Co-operation Peer Reviews: Austria 2020](#): Recommendation 9 [English].

¹² CONCORD: [AidWatch Report 2019](#) (2019): p. 31 [English].

¹³ Ibid., already excluding in-donor refugee costs that peaked in 2016.

¹⁴ [Entwicklungszusammenarbeitsgesetz inkl. EZA-Gesetz-Novelle 2003](#), BGBl 65/2003: Section 1, Para 3 [German].

¹⁵ BMEIA: [Gemeinsam. Für unsere Welt. Dreijahresprogramm der österreichischen Entwicklungspolitik 2019 bis 2021](#) (2018).

¹⁶ OECD-Website: [OECD Bilateral ODA for Austria average 2017 – 2018](#) [English].

¹⁷ OECD-Website: [OECD Bilateral ODA for total DAC countries average 2017 – 2018](#) [English].

¹⁸ OECD-Website: [Statistics on resource flows to developing countries](#) (2020): Table 31 [English].

¹⁹ Ibid.

²⁰ OECD: [Development Co-operation Profiles - Austria](#) (2020): Austria [English].

²¹ OECD-Website: [Total flows by donor](#): Donor: Austria, Amount type: Current prices (2019) [English].

²² BMF: Budget 2020, [Annex „Entwicklungszusammenarbeit – Tabellen“](#) (2020) [German].

²³ In 2019 Austria spent € 4.1 per capita on humanitarian aid. This calculation is based on general net disbursements for bilateral humanitarian aid of \$ 40.4 Mio. (OECD-Website: [Total flows by donor](#): Donor: Austria, Amount type: Current prices, 2019) and on a population of 8.82 Mio. Based on the same calculation, in 2018, Denmark spent € 65.9, Sweden € 43.59 and Switzerland € 35.82 per capita on bilateral humanitarian aid.

²⁴ Bundeskanzleramt Österreich: [Work program of the Austrian Federal Government 2020-2024](#) (2020): p. 187 [German].

²⁵ DAC: [OECD Development Co-operation Peer Reviews: Austria 2020](#): Recommendation 11 [English].

²⁶ Interessenvertretung Gemeinnütziger Organisationen: [Endlich: Die Richtlinien für den NPO Unterstützungsfonds sind da! \(2020\)](#) [German].

post-COVID-19 recovery and – against that background -secure aid and cooperation to realize human rights internationally.

Recommendations:

- Implement the work programme of the Austrian Government to reach the 0.7% GNI target by introducing a binding roadmap and a step-by-step plan.
- Reverse the declining trend of ODA going to LDC and fulfil the UN-target by providing 0.15-0.20% of GNI to LDC²⁷ to ensure that no one is left behind and to focus on poverty eradication.
- Steadily increase the budget for humanitarian crisis including the AFDRF and establish a binding financing framework which allows multi-annual budgetary planning for protracted crisis.²⁸
- Further the efforts to combat the COVID-19 pandemic, strengthen systems and mitigate the consequences for countries in the Global South by introducing an emergency aid package as well as expand Austrian development aid, as stipulated in the work programme of the Austrian Government, from 2021 onwards in order to stabilize developing countries in the medium term.

3. Qualitative aspects of ADC, humanitarian aid & corporate responsibility

(11) To effectively implement Austria's international human rights obligations, ADC and humanitarian aid should be implemented in a well-coordinated, coherent and strategic way. Additionally, to the legal basis of policy coherence for development as a guiding principle in the FDCA, the current TYP understands ADC as a responsibility of the whole government.²⁹

The Whole-of-Government approach of ADC

(12) In order to coherently implement such an approach, a long term inter-institutional strategy and coordination of all involved stakeholders is required. Currently, such an overall strategy is neither in place, nor being applied. ADC continues to suffer from a fragmented approach as well as incoherencies between different policy areas. The Advisory Council on Development Policy, which members are selected by the Minister of Foreign Affairs, still lacks a more active role, a clear mandate and selection criterion for its members. Reporting to and decision making in parliament is limited³⁰ and often delayed. There is only a relatively powerless sub-committee on development policy.

Recommendations:

- Develop a coherent, whole-of-government strategy for all actors of ADC in line with the 2030 Agenda for Sustainable Development with clear objectives and responsibilities.³¹
- Renew the advisory council (criteria for membership, clear mandate and its transparency), strengthen the role of the parliament and upgrade the sub-committee on development policy to a standing parliamentary committee.

Policy Coherence for Development & Sustainable Development

(13) Various Austrian policies and politics³² affect relevant socio-economic and ecological development strategies of countries in the Global South and sometimes run contrary to Austrian efforts of development cooperation and policy. Therefore, incoherencies and conflicting objectives between policies need to be addressed to further strengthen ADC.

²⁷ In line with [DAC HLM Final Communiqué](#) (2014): Para 8 [English].

²⁸ In line with the World Humanitarian Summits (WHS) principles and also part of the initiative *Grand Bargain*.

²⁹ BMEIA: [Gemeinsam. Für unsere Welt. Dreijahresprogramm der österreichischen Entwicklungspolitik 2019 bis 2021](#) (2018): p. 5 [German].

³⁰ Mainly to decisions on International Financial Institutions.

³¹ As outlined in the work program of the Austrian Government and recommended by the OECD DAC.

³² I.e. in the fields of mineral resources, agriculture or taxation.

(14) Against this background, the DAC Peer Reviews of 2015³³ and 2020³⁴ found that clear systems and structures are not in place to pursue policy coherence for development in practice. Even though the current TYP emphasises a whole-of-government-approach and coherent activities and despite the general commitment of policy coherence for sustainable development, no institutional mechanisms have been established yet. The current TYP also describes the linkages to other relevant strategies and refers to the most relevant stakeholders but – due to the legal basis – there is no arbitration mechanism in place, where conflicting interests are being discussed, negotiated or decided. According to the OECD DAC, Austria still lacks institutional arrangements, clear leadership to follow up upon coherence issues and a thorough “understanding across ministries of how domestic policies and regulations support or impede other countries’ sustainable development”³⁵.

Recommendations:

- Set up a central entity for the implementation and monitoring of policy coherence for sustainable development at the highest political level, with the authority to address key areas of incoherencies or conflicting interests between policy areas and thereby support the whole of government principle in ADC.
- Implement adequate impact assessments in the legislative process to examine the impact of laws on development objectives by giving parliament a stronger role.

Humanitarian aid and assistance

(15) In terms of the crisis and fragility context, there are no clear political directives or strategies for working in fragile contexts or preventing conflicts provided by the Government. This fragmentation of humanitarian assistance results in ad-hoc funding decisions in case of disasters that seem to be driven rather by political, financial or media pressure than by long-term need assessments or capacities on the ground. The prospect of developing a humanitarian aid strategy as outlined in the current work program of the Austrian Government³⁶ is seen as a positive step towards improving this situation – in line with the OECD DAC recommendations.

Recommendation:

- Implement the work programme of the Austrian Government and thus the commitment to develop a strategy for humanitarian aid in order to de-bureaucratize and structurally improve Austria’s humanitarian assistance based on internationally recognized humanitarian principles.

Corporate responsibility

(16) In the 2015 UPR, Austria received recommendations based on two joint submissions³⁷ to implement a control and a sanction mechanism for the protection of human rights in the Austrian legal system in order to regulate the activities of companies operating abroad. From the Human Rights Council working group, Austria received a recommendation to „strengthen oversight over Austrian companies operating abroad with regard to any negative impact of their activities on the enjoyment of human rights particularly in conflict areas, where there are heightened risks of human rights abuses”³⁸.

(17) Furthermore, in the 4th periodic report³⁹ Austria received a recommendation from the Committee on Economic, Social and Cultural Rights (CESCR Committee) to ensure that all economic,

³³ DAC: [Review of the Development Co-Operation policies and programmes of Austria: The DAC’s main findings and recommendations](#) (2015): Paras 2-4 [English].

³⁴ DAC: [OECD Development Co-operation Peer Reviews: Austria 2020](#): Recommendation 10 [English].

³⁵ Ibid.: The DAC’s main findings and recommendations [English].

³⁶ Bundeskanzleramt Österreich: [Work program of the Austrian Federal Government 2020-2024](#) (2020): p. 187 [German].

³⁷ UN General Assembly, Human Rights Council: [Summary prepared by the Office of the United Nations High Commissioner for Human Rights](#), A/HRC/WG.6/23/AUT/3 (2015): Recommendation 88 [English].

³⁸ UN General Assembly, Human Rights Council: [Report of the Working Group on the Universal Periodic Review: Austria](#), A/HRC/31/12 (2015): Recommendation 141.70 [English].

³⁹ CESCR: [Concluding observations on the fourth periodic report of Austria](#), E/C.12/AUT/CO/4 (2013): Para 11 [English].

social and cultural rights are protected in the framework of corporate activities. The CESCR Committee also pointed out its concerns about the lack of transparency of Austrian companies operating abroad and the negative impact of their activities in host countries regarding the enjoyment of the economic, social and cultural rights. Therefore, the CESCR Committee urged Austria to implement appropriate laws and regulations to monitor, investigate and set up accountability of corporations, basing its recommendation on the obligations of State parties in the corporate sector and economic, social and cultural rights.⁴⁰ In the process of the 5th periodic report of Austria from 2019, the CESCR Committee requested Austria to submit information by 02 April 2020 on the list of issues prior to submission on measures taken by Austria to prevent human rights violations through business activities, especially in relation to cases where entities have been found to have been involved in human rights violations and progress made towards the adoption of a National Action Plan on business and human rights (NAP).⁴¹

(18) Austria's responsibility to implement a NAP came from the United Nations (UN) and the European Union (EU). Based on the report from John Ruggie⁴², in 2011 the UN adopted the Guiding Principles on Business and Human Rights (UNGPs).⁴³ Through the Human Rights Council the UN unanimously accepted the UNGPs.⁴⁴ In 2011, the European Commission requested that all Member States implement a NAP by 2012 in order to fulfil the UNGPs.⁴⁵ In 2012, the European Parliament reaffirmed the duty of Member States in implementing the UNGPs.⁴⁶ In 2014, the Committee of Ministers (Council of Europe) adopted a declaration reaffirming the willingness to promote the implementation of the UNGPs and urged Member States to "formulate and implement policies and measures to promote that all business enterprises respect human rights throughout their operations, within and beyond their national jurisdictions"⁴⁷.

(19) Austria's willingness to implement a NAP was confirmed in its last UPR Report in 2015.⁴⁸ On the national level, Austria initiated a working group with the responsibility to set up a NAP in 2015 under the guidance of the Austrian Ombudsman Board⁴⁹ and with the support of civil societies. Unfortunately, the outcome of the working group did not result in the implementation of a NAP yet (July 2020).

(20) During the candidacy for the UN Human Rights Council 2019-2021 Austria announced⁵⁰ to continue to promote the OECD Guidelines for Multinational Enterprises as a mechanism to protect human rights in an international business context. Responsible for assisting enterprises in implementing the guidelines⁵¹ is the OECD National Contact Point (NCP) as a mediation and conciliation platform. According to the Pledges and Commitments of the Austria candidacy, the NCP "will continue to play a key role as a platform for dialogue and arbitration in connection with human

⁴⁰ Economic and Social Council, Committee on Economic, Social and Cultural Rights: [Report on the forty-sixth and forty-seventh sessions - Supplement No. 2](#), E/2012/22 (2012): Annex VI, Section A [English].

⁴¹ Economic and Social Council, Committee on Economic, Social and Cultural Rights: [List of issues prior to submission of the fifth periodic report of Austria](#), E/C.12/AUT/QPR/5 (2019) [English].

⁴² UNHCR: [Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises](#) [English].

⁴³ The UNGPs consist of three pillars: The State duty to protect human rights, the corporate responsibility to respect human rights and the access to remedy. See: Human Rights Council: [Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie](#), A/HRC/17/31 (2011) [English].

⁴⁴ Ibid. p. 3.

⁴⁵ Europäische Kommission: [Eine neue EU-Strategie \(2011-14\) für die soziale Verantwortung der Unternehmen \(CSR\)](#), KOM 2011 681 (2011): p. 17 [German].

⁴⁶ European Parliament: [Bericht zur Überprüfung der EU-Menschenrechtsstrategie \(2012/2062\(INI\)\), A7 – 0378/2012](#) (2012): Para 36 [German].

⁴⁷ Council of Europe: [Declaration of the Committee of Ministers on the UN Guiding Principles on business and human rights](#) (2014) [English].

⁴⁸ UN General Assembly, Human Rights Council: [Report of the Working Group on the Universal Periodic Review: Austria](#), A/HRC/31/12 (2015): under Section IV, p. 15 [English].

⁴⁹ Volksanwaltschaft: [Nationaler Aktionsplan Menschenrechte](#) [German].

⁵⁰ BMEIA: [Austrian Candidacy for the United Nations Human Rights Council 2019 - 2021](#) [English].

⁵¹ Such as the duty to respect human rights (Part IV, p. 1-6) or implementing a due diligence mechanism in the supply chain (Part II, p. 10 & 12). See: OECD: [OECD Guidelines for Multinational Enterprises](#) (2011) [English].

rights issues related to cross-border activities of Austrian companies”⁵². Unlike a State Court, however, the NCP cannot provide a binding mechanism.⁵³ Taking into consideration that the victims involved often do not have the means to finance a mediation procedure in Austria and do not have the certainty that the company involved will provide access to remedy, we firmly believe that Austria should provide a better access to justice when it comes to cross-border activities of Austrian companies.

(21) In February 2020, the Committee on the Rights of the Child (CRC) gave Austria the recommendation to adhere to its commitment in meeting the ODA target of 0.7% GNI. The CRC also urged Austria to adopt a child rights-based approach for its trade agreements and development aid policy and programmes. The CRC noted the danger showing how business enterprises can negatively impact children’s rights⁵⁴. Against that background and the UNGPs, the CRC recommended Austria to implement regulations to “ensure that the business sector complies with international and national human rights, labour, environmental and other standards, particularly with regard to children’s rights.”⁵⁵

(22) Based on previous UPR, CESCR and CRC recommendations it is evident that Austria still has a deficiency when it comes to the regulation of cross border activities of Austrian companies in safeguarding human rights and in providing access to justice for victims.

(23) While other European countries have already implemented a law protecting human rights in the context of cross border business activities⁵⁶, there is still no NAP or law protecting human rights in global supply chains in place in Austria. So far, Austria has unfortunately failed to implement the recommendations listed above.

(24) In May 2020, an opposition party in the Austrian Parliament made a second attempt in proposing a law on human rights due diligence for the textile supply chain (Sozialverantwortungsgesetz - SZVG) to the Parliament. Even though the proposed law would not be cross-sectoral (therefore it would not be covering other important areas of the supply chain where human rights abuses are still known to be taking place), its adoption would be a first step towards regulating the activities of transnational businesses.⁵⁷

Recommendations:

- Regulate activities of companies operating abroad by implementing appropriate laws and regulations to monitor, investigate and set up accountability procedures of corporations.⁵⁸
- Ratify the optional protocol to the International Covenant on Economic, Social and Cultural Rights in order to further strengthen the Rights of the Convention.⁵⁹

⁵² BMEIA: [Austrian Candidacy for the United Nations Human Rights Council 2019 - 2021](#) [English].

⁵³ In the last case the Austrian NCP dealt with, we noticed that the signing of a confidentiality agreement by the parties involved, the basis of good will to undergo mediation and the result of the mediation ending in a series of unbinding recommendations for the parties involved were not as satisfying as a binding court procedure. See: BMDW: [Einigung im Xayaburi - Laos Staudamm Beschwerdefall](#) [German].

⁵⁴ Committee on the Rights of the Child: [General comment No. 16 \(2013\) on State obligations regarding the impact of the business sector on children’s rights](#), CRC/C/GC/16 (2013): General comment No. 16 [English].

⁵⁵ Committee on the Rights of the Child: [Concluding observations on the combined fifth and sixth periodic reports of Austria](#), CRC/C/AUT/CO/5-6 (2020) [English].

⁵⁶ Such as the United Kingdom with the section 54 of the Anti-Slavery Act, which regulates transparency in supply chains etc. (see: [Modern Slavery Act 2015](#) [English]), the Netherlands with the Child Labour Due Diligence Act (see: Eerste Kamer der Staten-Generaal 2017: [Voorstel van wet van het lid Van Laar houdende de invoering van een zorgplicht ter voorkoming van de levering van goederen en diensten die met behulp van kinderarbeid tot stand zijn gekomen \(Wet zorgplicht kinderarbeid\)](#), 34 506 A [Dutch]) and France with the Devoir de Vigilance (see: [LOI n 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre](#) [French]).

⁵⁷ Parlament, Republik Österreich: [Antrag der Abgeordneten Stöger, Petra Bayr MA ML, 579/A XXVII. G](#) [German].

⁵⁸ See: CESCR: [Concluding observations on the fourth periodic report of Austria](#), E/C.12/AUT/CO/4 (2013): p. 25 [English].

⁵⁹ Ibid.

- Implement the recommendation of the CRC in implementing a binding regulation for businesses⁶⁰ to comply with international and national human rights, labour and environmental and other standards, particularly with regard to children's rights.
- Ratify the optional protocol to the CRC on a communication procedure, to further strengthen the rights of the CRC.⁶¹
- Undertake a constructive and active role in the Open-Ended Inter-Governmental Work Group of the TNC-Treaty and a major role in promoting and easing the path towards a binding international convention on business activities and human rights.
- Fulfil extraterritorial jurisdiction when Austrian companies breach severe human rights abroad, especially in cases where children are the victims, regardless of the legal jurisdiction of the country where the offence has been committed.
- Fulfil, finally, the requirement of implementing a NAP on business and human rights.
- Adapt Austrian laws⁶² to fulfil its environmental responsibilities⁶³ but to also to regulate the responsibilities of businesses in safeguarding human rights with the aim to
 - implement a legally binding human rights due diligence system in the Procurement Law⁶⁴ and
 - establish an extra territorial jurisdiction in the Business Criminal Law.⁶⁵

4. Human rights based approach in ADC

(25) We recognize that the human rights based approach is highlighted as a leading principle for all projects, programmes and political dialogue of development cooperation in the former TYP (2016 - 18) as well as in the current TYP (2019-21). Human rights are mentioned as a cross cutting issue in the previous Programme under priorities and actions as well as under guiding principles in the current TYP, including on private sector participation, particularly referring to UNGPs⁶⁶ and OECD Guidelines⁶⁷, supporting and adhering to the ILO Decent Work Agenda and the ILO Labour Standards. Also with regards to women empowerment and migration, the human rights approach is mentioned, in which good governance, the promotion of rule of law and human rights are highlighted.

(26) Nevertheless, ADC documents lack concrete measures and success indicators to monitor the effect of ADC's activities on human rights. It is necessary to measure how the human rights based approaches are being implemented, which is not to be found in the TYPs.

(27) According to the 2013 parallel report to Austria's 5th State Report on Economic Social and Cultural Rights by Austrian non-governmental organisations⁶⁸, a project co-financed by the ADA and the Austrian Development Bank (OeEB) even had negative impacts.⁶⁹ In view of these impacts on economic, social and cultural rights, the CESCR called upon Austria "to adopt a human rights-based

⁶⁰ Local and international subsidiaries located in Austria.

⁶¹ Also in: Committee on the Rights of the Child: [Concluding observations on the combined fifth and sixth periodic reports of Austria](#), CRC/C/AUT/CO/5-6 (2020): p. 45 [English].

⁶² Such as the procurement law and the business criminal law ([Bundesgesetz über die Verantwortlichkeit von Verbänden für Straftaten – VbVG](#), BGBl 151/2005 [German]).

⁶³ As planned in the current work program of the Austrian government.

⁶⁴ As foreseen in the second Pillar of the UNGPs.

⁶⁵ I.e. by incorporating the Business Criminal Law in § 64 of the Austrian Criminal Code (StGB) which regulates the extra territorial jurisdiction of Austria for certain criminal acts irrespective of the jurisdiction of the place where the crime has been committed.

⁶⁶ OHCHR: [United Nations Guiding Principles on Business and Human Rights](#) (2011) [English].

⁶⁷ OECD: [OECD Due Diligence Guidance for Responsible Business Conduct](#) (2018) [English].

⁶⁸ [Parallel Report on Austria's Extraterritorial State Obligations on ESCR to Austria's 5th State Report](#) (2013) [English].

⁶⁹ Specifically, the suspicion of land grabbing as part of a co-financing of a Swiss energy company in Sierra Leone that threatens local food security because large areas of land are leased to the operators was raised. As a result, the local population lost access to land and water. According to the 2013 parallel report to Austria's 5th State Report on Economic Social and Cultural Rights by Austrian non-governmental organisations these projects were financed and administered by complex structures involving donor consortia, International Financial Institutions and a private fund.

approach to its policies on official development assistance” including human rights impact assessments, a monitoring mechanism, remedial measures and a complaint mechanism⁷⁰. Even though the OeEB withdrew from the project since then and made significant improvements in their framework⁷¹ there remains room for improvement regarding the implementation of a human rights-based approach in ADC in general.

Recommendations:

- Implement the recommendations of the CESCR to adopt a human rights-based approach in ADC policies, including human rights impact assessments, a monitoring mechanism, remedial measures and a complaint mechanism.⁷²
- Treat inclusion, participation, non-discrimination and equality as inherent aspects of ADC and humanitarian aid.

Participation of civil society

(28) Civil society is increasingly involved in consultations, however, there is a lack of transparency and information and the benefits of involving civil society organisation (CSOs) in developing strategies and policies are not yet fully exploited. Unfortunately, the Standards for Public Participation⁷³ are not fully implemented.⁷⁴

Recommendation:

- Implement the Standards for Public Participation, ensuring inclusion of and accessibility for all relevant stakeholders.

(29) A human rights based approach includes the focus of ADC on the most vulnerable and marginalised groups of a society⁷⁵. Hence, we subsequently focus on gender aspects and persons with disabilities.

Gender aspects

(30) The ADA released a comprehensive policy document on “Gender Equality and the Empowerment of Women and Girls”⁷⁶ which promotes strategic approaches and actions.⁷⁷ The current TYP recognizes the importance of the Agenda 2030 and the SDGs while gender equality is considered a thematic focus area, which is appreciated by the undersigning CSOs. The document also recognizes the importance of gender equality for poverty elimination⁷⁸, committing to mainstreaming gender throughout the whole project cycle and implementing independent projects and programs in the area of gender equality.

(31) However, the efforts to increase gender equality targeted programmes and projects to fulfil the EU GAP II goal of 85%⁷⁹ seem to be limited to the Ministry of Europe, Integration and Foreign Affairs

⁷⁰ CESCR: [Concluding observations on the fourth periodic report of Austria](#), E/C.12/AUT/CO/4 (2013): Para 11 [English].

⁷¹ Besides numerous other commitments from other actors from ADC stakeholders the OeEB i.e. published their 2019-23 strategy including environmental and social standards as well as the inclusion of human rights, additionally in early 2019 the OeEB has introduced a Development Effectiveness Rating Tool to evaluate the development effects of its projects for the bank's entire portfolio and new business.

⁷² Ibid.

⁷³ The Standards for Public Participation were adopted by the Council of Ministers in 2008. See: Austrian Federal Chancellery, Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management: [Standards of Public Participation](#) (2008) [English].

⁷⁴ I.e. on rules when which stakeholders are invited, on how much room for exchange exists or why feedback is or is not taken up.

⁷⁵ Women, children and persons with disabilities are among these groups.

⁷⁶ BMEIA: [Gender Equality and the Empowerment of Women and Girls](#) (2017) [English].

⁷⁷ Among them a Whole-of-Government approach, a Gender Focal Point Network, minimum standards of ADC for the consideration of gender equality in projects and programs in line with the EU Gender Action Plan GAP II and gender targets of ADC.

⁷⁸ BMEIA: [Gemeinsam. Für unsere Welt. Dreijahresprogramm der österreichischen Entwicklungspolitik 2019 bis 2021](#) (2018) [German].

⁷⁹ Referring to DAC Gender Equality Marker 1 and 2 together.

and the ADA. The available data shows⁸⁰ a certain progress of gender-specific ADC funding between 2012 and 2017, but a significant gap to reach the target remains. While ADA has dedicated 79% of its funding for gender equality in 2018 (72% in 2017, 73% in 2016)⁸¹, the overall (sector-allocable) bilateral average is significantly lower 51% in 2018 (40% in 2017, 45% in 2016).⁸²

(32) Some studies based on an analysis of OECD DAC gender data suggest that there is a far too low effort to promote gender equality by ADC in the areas of climate change mitigation and adaption⁸³ and in the private sector; though a slight increase was visible.⁸⁴

Recommendations:

- All actors in ADC must adhere to the core working principles in the current TYP, particularly a human rights approach as well as gender equality. Also, funding decisions must be based on a prior assessment of applicants in regards to their compliance with core working principles.
- Implement gender budgeting consistently across all sectors and activities of ADC.⁸⁵
- Substantially increase the funding for gender equality programmes.
- Extend gender budgeting and public reporting on gender equality the whole of bilateral ODA flows.⁸⁶

Persons with disabilities

(33) Following its ratification of the UN Convention of the Rights of Persons with Disabilities (CRPD), Austria has to foster the rights of persons with disabilities in its humanitarian action⁸⁷ and in its international development cooperation.⁸⁸

(34) The FDCA mandates a general consideration of the needs of persons with disabilities.⁸⁹ In line with the law, these are considered in a small range of outdated guidance documents of the ADA currently under revision.⁹⁰ However, the current TYP of the ADC does not set disability inclusion as a cross-cutting policy issue.⁹¹ The NAP on Disability 2012-2020 includes a chapter on development cooperation but does not allocate budgetary resources for its implementation⁹², hence, lacking a systematic inclusion of persons with disabilities in humanitarian action and inclusive design. Consultations with organisations of persons with disabilities and other civil society actors take place on a regular basis and involve consultations on policy documents.

(35) Since the last review, the situation remains generally unchanged. ADC has taken small steps towards inclusion of persons with disabilities, for instance by integrating questions on accessibility

⁸⁰ Based on a comparison of OECD data for the overall bilateral aid in support of gender equality and women's empowerment and the ADA data.

⁸¹ BMEIA: [ODA-Bericht 2018 - Tabellen](#) (2020) [German].

⁸² OECD: [Development Co-operation Profiles - Austria](#) (2020): Austria [English].

⁸³ This data is from 2013. See: OECD DAC Network on Gender Equality (GENDERNET): [Making climate finance work for women: Overview of the integration of gender equality in aid to climate change](#) (2015) [English].

⁸⁴ An Increase was visible from the report 2015-2016 to the report 2016-2017, but still Austria is below the OECD DAC average. See: OECD DAC: [How Does Aid Support Women's Economic Empowerment?](#) (2018) [English] & OECD DAC: [Development finance for gender equality and women's empowerment: A snapshot](#) (2019) [English].

⁸⁵ This also includes the promotion of tax justice in support of gender equality and women's empowerment, social justice and environmental protection.

⁸⁶ By sector allocable like in the DAC reports on Gender Equality (OECD: [Aid in Support of Gender Equality and Women's Empowerment](#) [English]) and not be limited to ADA flows.

⁸⁷ Monitoringausschuss: [Stellungnahme zu Barrierefreier Humanitärer Hilfe und Entwicklungszusammenarbeit](#) (2012): Article 11 [German].

⁸⁸ Ibid.: Article 32.

⁸⁹ [Entwicklungszusammenarbeitsgesetz inkl. EZA-Gesetz-Novelle 2003](#), BGBl 65/2003: §1(4)(4) [German].

⁹⁰ Particularly in ADA, [Menschen mit Behinderungen: Anleitung zur Inklusion von Menschen mit Behinderungen in das Projekt-Zyklus-Management der OEZA](#) (2013) [German]. I.e. also in: BMEIA, [Poverty Reduction: Policy Document](#) (2009) [English]; BMEIA, [Internationale Humanitäre Hilfe: Leitlinien der Österreichischen Entwicklungszusammenarbeit](#) (2007) [German].

⁹¹ BMEIA: [Gemeinsam. Für unsere Welt. Dreijahresprogramm der österreichischen Entwicklungspolitik 2019 bis 2021](#) (2018): p. 5 [German].

⁹² BMASK, [Nationaler Aktionsplan Behinderung 2012-2020](#) (2012): pp. 27-29 [German].

and on marginalised groups in ADA proposal application forms as well as by supporting some projects with a focus on persons with disabilities, particularly through an EU-funded consortium. ADC applies the OECD DAC Policy Marker on Inclusion and Empowerment of People with Disabilities and first figures were reported in 2020. The recommendation of Singapore is thus partially implemented.⁹³

(36) Nonetheless, regarding persons with disabilities there is no necessary Twin-Track Approach to development cooperation and humanitarian action.⁹⁴ Concluding Observation 26 of the Austrian Review on the implementation of the UN CRPD therefore remains open for implementation since 2013.⁹⁵ Tailored ADC activities to support the rights of women and children with disabilities are equally indiscernible. Consequently, the recommendation of Japan has only been insufficiently implemented.⁹⁶

Recommendations:

- Provide a chapter on the contractual obligations stemming from CRPD⁹⁷, which includes measurable indicators as well as an allocation of adequate budgetary resources for the implementation of activities in the NAP on Disability beyond 2020.
- Include dedicated activities, measurable indicators and adequate budgetary resources for the inclusion of persons with disabilities in humanitarian action and ADC in line with international human rights obligations as part of the NAP on Disability beyond 2020.
- Prioritise inclusion of persons with disabilities as a cross-cutting policy issue of ADC - in line with environment or gender - and systematically monitor its implementation.
- Consider women and children with disabilities in the preparation, update and implementation of all strategies and guiding frameworks for ADC.
- Endorse the Charter on the Inclusion of Persons with Disabilities in Humanitarian Action and implement it in its humanitarian actions.

The undersigning organisations kindly thank you for considering the recommendations submitted above and hope for them to be taken into consideration.

Yours Sincerely,



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⁹³ UN General Assembly, Human Rights Council: [Report of the Working Group on the Universal Periodic Review: Austria](#), A/HRC/31/12 (2015): Recommendation 139.115 [English].

⁹⁴ A Twin-Track Approach entails on the one hand specific projects the rights of persons with disabilities and on the other hand activities to mainstream persons with disabilities in general programmes. Improved inclusion is goal of both parts of the Twin-Track Approach. See also: UNDG: [Including the Rights of Persons with Disabilities in United Nations Programming at Country Level](#) (2011): p. 53 [English].

⁹⁵ UN Committee on the Rights of Persons with Disabilities: [Concluding Observations on the Initial Report of Austria](#) CRPD/C/AUT/CO/1 (2013): Para 26 [English].

⁹⁶ UN General Assembly, Human Rights Council: [Report of the Working Group on the Universal Periodic Review: Austria](#), A/HRC/31/12 (2015): Recommendation 139.20 [English].

⁹⁷ Pertaining to Article 11 and Article 32 in particular.