

Vienna, 12 April 2012

Independent Monitoring Committee for the Implementation of the  
UN Convention on the Rights of Persons with Disabilities  
(Section 13 Austrian Federal Disability Act)

## **Statement**

**On the implementation of the**

**Convention on the Elimination of Discrimination against Women**

**in Austria**

**(Seventh Periodic Report in accordance with Article 18 CEDAW)**

**for women and girls with disabilities**

### **Introduction: The Monitoring Committee**

Austria signed the Convention on the Rights of Persons with Disabilities (CRPD) on 30 March 2007 and ratified it in October 2008 (Federal Law Gazette III No. 155/2008). The Monitoring Committee was established pursuant to Section 13 Austrian Federal Disability Act (Bundesbehindertengesetz) (Federal Law Gazette No. 283/1993 as amended by the Federal Law Gazette I No. 109/2008), in line with Article 33 Para 2 CRPD. The Monitoring Committee was constituted on 10 December 2008 and adopted its Rules of Procedure on 1 April 2009 (see Annex a.). The preamble of the Rules of Procedure explicitly refers to the principle of non-discrimination and the equality of men and women pursuant to Article 3 (b) and (g) CRPD.

The CRPD provides for consideration of the principles relating to the status and functioning of national institutions for the protection and promotion of human rights (Article 33 Para 2 CRPD). As the Monitoring Committee has put on record in its statement of 27 May 2009, its design does not comply with the Paris Principles. An independent Human Rights institution with status "A" does not exist in Austria as of this writing.

The Monitoring Committee, which is in charge of federal matters only, has not yet been informed of the establishment or designation of Monitoring Committees in the *Länder* (Federal provinces) as provided for in Section 13 Para 8 Austrian Federal Disability Act.

The remit of the Monitoring Committee is the protection and promotion of the human rights of persons with disabilities (Section 2 Para 2 Rules of Procedure). Among others, it issues recommendations - also with reference to CEDAW Committee General Recommendation No. 18 "*Disabled Women*" on the implementation of the human rights of women and girls with disabilities in Austria.

This statement is an outline of some of the topics brought to the attention of the Monitoring Committee – it does not claim to be comprehensive.

### **Data on women and girls with disabilities**

Although the CEDAW Committee recommends „*that States parties provide information on disabled women in their periodic reports, and on measures taken to deal with their particular situation, including measures to ensure that they have equal access to education and employment, health services and social security, and to ensure that they can participate in all areas of social and cultural life*“<sup>1</sup> no such information is provided in the Austrian State Report on the implementation of the CEDAW.<sup>2</sup> The Independent Monitoring Committee aims to fill this gap by providing some of the requested information in its statement.

It should be mentioned that there is a general and massive lack of data and statistics on persons with disabilities generally, including women and girls with disabilities. Aware that the collection of data and statistics concerning impairments and/or disabilities is extremely sensitive, the Monitoring Committee criticizes the absence of a requirement survey on the basis of standardised procedures and thereof derived data and statistic material.

### **Social barriers for girls and women with disabilities**

Both gender and disability are products of social construction. They are constantly created in every day life through interaction with other persons and institutions.<sup>3</sup> Both concepts are based on the body and strongly connected to very similar stereotype attributions, that is, e.g., being weak, passive, dependent and powerless.<sup>4</sup> These stereotypes again influence the modes of interaction within society and hence, are constantly recreated. Women with disabilities are doubly and multiply associated with the ascribed characteristics. Additionally, they are generally not recognized as being

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<sup>1</sup> CEDAW General Recommendation 18 of 4 January 1991.

<sup>2</sup> Persons with disabilities are mentioned in passing only, see 7<sup>th</sup> and 8<sup>th</sup> Austrian State Report, p. 41.

<sup>3</sup> Swantje Köbsell, *Gendering Disability: Behinderung, Geschlecht und Körper*, In: *Gendering Disability, Intersektionale Aspekte von Behinderung und Geschlecht*, Jutta Jakob, Swantje Köbsell, Eske Wollrad, Bielefeld, 2010, page 21.

<sup>4</sup> Swantje Köbsell, page 23.

“real women” as sexual partners or potential mothers,<sup>5</sup> which is confounded by the label of “asexuality”.

On this basis women and girls with disabilities are confronted with massive prejudice and social barriers in Austria. A comprehensive empowerment strategy, particularly awareness-raising campaigns and strong measures for enhanced participation, also at the political level, are necessary in order to break down this stereotyping and to support visibility and independence of women and girls with disabilities. The Monitoring Committee is also concerned about the lack of networking facilities and specialised contact points for women and girls with disabilities in Austria.

### **Discrimination against women and girls with disabilities and the exercise and enjoyment of human rights and fundamental freedoms**

The obligation to eliminate discrimination in all its forms as stipulated in articles 2 and 3 CEDAW is not effectively realised for women and girls with disabilities in Austria. Frequently they are limited in the *exercise and enjoyment of human rights and fundamental freedoms* (article 3), whether they derive from the CEDAW or CRPD. Especially with regard to women and girls with disabilities there is a lack of *appropriate measures to eliminate discrimination [...] by any person, organization or enterprise* as foreseen in article 2(e).

The Monitoring Committee criticizes the lacking reflection of the specific situation of women and girls with disabilities in the existing legal provisions.

Equality between men and women is enshrined in the Austrian constitution (article 7 para 2 Federal Constitutional Law), reinforced by several equality acts and acts on non-discrimination at federal and regional level. However, there are no specific provisions on women with disabilities. Likewise, existing disability laws do not adequately reflect the gender aspect. This legal invisibility of women with disabilities impacts implementation and thus daily life.

Women and girls with disabilities are subject to double or multiple-discrimination. The discrimination deriving from the gender affiliation culminates with the barriers persons with disabilities are confronted with. The multiple forms of discrimination are being reflected, inter alia, in education within the family and in schools, vocational education, employment and in the ability to create self-determined social relationships and partnerships.<sup>6</sup> Women with disabilities face a high risk of poverty<sup>7</sup> and those living in rural areas or with migration background<sup>8</sup> experience even more complex forms of discrimination.<sup>9</sup>

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<sup>5</sup> Ibid, page 21.

<sup>6</sup> Silvia Paierl, *Gender und Behinderung, Benachteiligungskonstellationen von Frauen mit Behinderung am Arbeitsmarkt*, Federal Social Office Regional Department Styria, 2009, <http://bidok.uibk.ac.at/library/paierl-gender.html>.

<sup>7</sup> Ibid.

<sup>8</sup> See also Christiane Hudson *Mehrdimensional verletzbar, Eine schwarze Perspektive auf Verwobenheit zwischen Ableism und Sexismus in Gendering Disability, Intersektionale Aspekte von Behinderung und Geschlecht*, Jutta Jakob, Swantje Köbsell, Eske Wollrad, Bielefeld, 2010, page 67.

<sup>9</sup> Cf Silvia Paierl.

The Monitoring Committee is convinced of the strong need for a comprehensive and multi-pronged and multi-levelled strategy including legislative and policy measures that take into account the multiple grounds and forms of discrimination in order to create equal opportunities for women and girls with disabilities in Austria.

### **Participation of women and girls with disabilities in all areas of life**

The Monitoring Committee notes that there is limited understanding and very little awareness on the multiple barriers women with disabilities encounter that prevent their full and equal participation in all areas of life. The accumulation of factors, including the prevailing stereotypes, the persistent discrimination in education and in the labour market, as well as the high poverty risk, results in the social exclusion of women with disabilities at large. Additionally, physical, communicative and intellectual barriers aggravate the situation.

The Monitoring Committee points out that the participation of women and girls with disabilities in cultural life, recreation and sports should be supported by enhancing the quality and quantity of accessible services in all areas and by establishing a system of comprehensive personal assistance.

The Monitoring Committee is concerned about insufficient measures to facilitate and enhance political and public participation of persons, in particular women with disabilities in Austria. Currently, there is only one female member of parliament with a sensory impairment (out of 183), whereas the Monitoring Committee is not aware of any female politician with disabilities of the *Länder*. Although persons with disabilities are not legally excluded from the right to vote, the exercise of this right is aggravated, inter alia by the lack of comprehensive accessibility of polling stations and of electoral processes at large, e.g. Easy-To-Read pamphlets and instructions.

The Council of Ministers has committed itself to Standards of Public Participation.<sup>10</sup> The Monitoring Committee reiterates that these standards must be applied in an inclusive and accessible way. This includes also the provision of comprehensive accessible information including the use of Easy-To-Read-Formats and communicative assistance, particularly for persons with sensory impairments.<sup>11</sup>

### **Violence against women and girls with disabilities**

The definition of discrimination enshrined in article 1 CEDAW *“includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately.”*<sup>12</sup>

Women and girls with disabilities in Austria are affected by multiple forms of gender-based violence in a disproportionate way. Reasons for this kind of discrimination arise from, inter alia, prevailing stereotypes, like the perception (and treatment) of

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<sup>10</sup> Cf [www.partizipation.at](http://www.partizipation.at)

<sup>11</sup> See Monitoring Committee, Contribution to the study of the Office of the High Commissioner for Human Rights on participation in political and public life by persons with disabilities, 15 October 2011, p. 2.

<sup>12</sup> CEDAW General Recommendation 19, para 6.

persons with disabilities as asexual beings<sup>13</sup> as well as from structural factors (e.g. institutionalization) that increase the likelihood of violence and impede the (sexual) self-determination of persons with disabilities.<sup>14</sup> Separate educational settings impact the possibilities to stand up to violence and abuse.

In a study of 1996 on sexual exploitation of girls and women with disabilities<sup>15</sup> about 62,3% of the women providing answers to the questions on sexual harassment indicated that they have been sexually harassed one or several times. Regarding sexual violence 64% of the women providing answers stated that they have experienced sexual violence one or several times in their life. Hence, more than every second woman is affected<sup>16</sup>. According to these results, women with disabilities are far more likely to be affected by sexual violence than women without disabilities. According to a comparable study 34% of non-disabled women have experienced sexual violence.<sup>17</sup>

The Monitoring Committee points out, that carrying out or persuading women and girls with disabilities to undergo sterilization constitutes a serious form of gender-based violence.<sup>18</sup> According to a study from 1996 27% of the interviewed women with learning disabilities stated that they were forced to undergo sterilization before they have reached the age of majority which mainly was desired by their parents.<sup>19</sup>

The Monitoring Committee stresses the need for adequate and effective measures in order to *prevent and address all forms of violence against women* as requested by the CEDAW Committee in its concluding comments on Austria<sup>20</sup>. Especially with regard to violence against women and girls with disabilities the Monitoring Committee underscored the strong need for measures for empowerment, strengthening the social and physical self-determination and independence of women with disabilities in Austria. Sex education and assistance in the sexual sphere for women with learning disabilities are crucial, especially when it comes to the ability to set boundaries to protect the physical and psychological integrity. The Monitoring Committee furthermore criticizes the lack of personal assistance schemes and care performed by persons of the same gender.

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<sup>13</sup> Monitoring Committee, Statement on Violence and Abuse, page 5.

<sup>14</sup> Monitoring Committee, Statement on Violence and Abuse, page 4.

<sup>15</sup> Aiha Zemp, Erika Pircher, *Weil das alles wehtut mit Gewalt, Sexuelle Ausbeutung von Mädchen und Frauen mit Behinderungen*, Federal Ministry for Women's Affairs and Consumer Protection 1996; <http://bidok.uibk.ac.at/library/zemp-ausbeutung.html>. The study was carried out in various facilities for persons with disabilities in Austria. Women between the age of 17 and 69 years were interviewed on their experiences with sexual violence.

<sup>16</sup> See also Violence Report 2001, Federal Ministry for Social Security and Generations, page 76, [http://bmwa.cms.apa.at/cms/content/attachments/6/2/5/CH0617/CMS1192461342869/gewaltbericht\\_2002\\_-\\_kurzfassung1.pdf](http://bmwa.cms.apa.at/cms/content/attachments/6/2/5/CH0617/CMS1192461342869/gewaltbericht_2002_-_kurzfassung1.pdf).

<sup>17</sup> Monitoring Committee, Statement on Violence and Abuse, page 5.

<sup>18</sup> Monitoring Committee, Statement on Violence and Abuse, page 3.

<sup>19</sup> Aiha Zemp, Erika Pircher, *Weil das alles wehtut mit Gewalt, Sexuelle Ausbeutung von Mädchen und Frauen mit Behinderungen*, Federal Ministry for Women's Affairs and Consumer Protection 1996; <http://bidok.uibk.ac.at/library/zemp-ausbeutung.html>.

<sup>20</sup> CEDAW/C/AUT/CO/6 of 2 February 2007, para 24.

The Monitoring Committee welcomes efforts to implement the monitoring provisions of the CRPD (Article 16 Para 3) on violence as part of the implementation of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) by the Ombudsman Office as of July 1, 2012.

The Monitoring Committee discussed the issue of violence against persons with disabilities in a public meeting in November 2010 and subsequently issued recommendations on February 24, 2011.

### **Education for women and girls with disabilities**

The Monitoring Committee is highly concerned about the lack of equal access of women with disabilities to education in Austria. Studies show that educational attainments of women with disabilities are much lower than those of men with disabilities or those of women without disabilities. 46% of the group of women with disabilities between the age of 16 and 64 have obtained no further education after primary school whereas the same holds true for 32% of the group of men with disabilities and for 23% of the group of women without disabilities (and for only 12% of the group of men without disabilities).<sup>21</sup> Both, women with and without disabilities are similarly disadvantaged when it comes to the achievement of vocational apprenticeship diplomas (about 10% less women than men obtain this kind of diploma). Women with disabilities are also underrepresented in the field of integrated vocational education and in programs for occupational rehabilitation. Furthermore, choices are frequently limited to “women-specific” professions.<sup>22</sup>

The Monitoring Committee underlines that the precondition of equal and fair access to education for all is the provision of an inclusive education system. In Austria, there is no commitment to the concept of inclusive education. Segregating institutions like special schools and special educational institutions are still an integral part of the Austrian education system. However, there is a strong need for an inclusive educational framework that acknowledges and responds to the individual needs of all persons and that consequently offers adequate support for women and girls with and without disabilities.

Based on a public meeting at Parliament, the Monitoring Committee issued recommendations on inclusive education on June 10, 2010.

### **Employment of women and girls with disabilities**

Occupational segregation – as already criticized by the CEDAW Committee in its last concluding comments on Austria<sup>23</sup> -- remains an issue of high concern. Especially women with disabilities are affected multiply as they face segregation based on their status as a woman as well as their impairment. Resulting from a segregating and discriminating educational system, their formal qualifications are in most cases lower

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<sup>21</sup> Disability Report 2008, Report of the Federal Government on the situation of persons with disabilities in Austria 2008, Federal Ministry for Labour, Social Affairs and Consumer Protection, p. 17.

<sup>22</sup> Silvia Paierl.

<sup>23</sup> CEDAW/C/AUT/CO/6 of 2 February 2007, para 20.

than those of men with disabilities or women without disabilities, which impacts their employment opportunities.

Studies investigating the labour market participation in Austria show that women with disabilities are largely underrepresented. Persons with disabilities generally face a much higher risk of being excluded from the labour market. That said, women with disabilities form the most marginalised group in this context. Depending on the definition of disability, their participation rates vary between 31% and 49% while those of men with disabilities range between 37% and 62%.<sup>24</sup>

The majority of women with disabilities working in the mainstream labour market, work in “women-specific” sectors. Their income is frequently below standard and they usually occupy very low hierarchy levels.<sup>25</sup> Compared to men they are far more often employed for part time work and have a much lower income. Mothers with disabilities often have difficulties in re-entering the labour market (also due to an increased discontinuity in their employment history).<sup>26</sup> The Monitoring Committee has issued recommendations on work and employment of persons with disabilities.

### **Poverty of women and girls with disabilities**

Statistics show that in Austria the poverty-risk rate of persons with disabilities nearly doubles the rate of others (20% compared to 11%). The poverty-risk rate of women with disabilities is 50% higher than that of men (23% compared to 16%). 11% of the persons with disabilities are affected by manifest poverty (compared to 4% of non-disabled persons). Again women with disabilities (between the age of 16 and 64) are most affected with a rate of 16%.<sup>27</sup>

Reasons for the high poverty rate of women with disabilities lie in their marginalisation in the educational and working field as further outlined above. There is also the fact that due to their impairment their everyday costs/expenditures are likely to be higher compared to those of women and men without disabilities.<sup>28</sup>

The Monitoring Committee highly recommends policy and legislative measures as well as financial support measures in order to adequately respond to the interrelationship between poverty and disability<sup>29</sup> with particular attention to the

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<sup>24</sup> Silvia Paierl.

These numbers derive from an EU-SILC survey carried out in 2006. It should be mentioned that the microcensus survey carried out in 2007 showed slightly different numbers but lead to the same conclusion – that is that women with disabilities are clearly underrepresented in the labour market compared to men with and without disabilities and to women without disabilities.

<sup>25</sup> Disability Report 2008, Report of the Federal Government on the situation of persons with disabilities in Austria 2008, Federal Ministry for Labour, Social Affairs and Consumer Protection, p. 231.

<sup>26</sup> Silvia Paierl.

<sup>27</sup> Disability Report 2008, Report of the Federal Government on the situation of persons with disabilities in Austria 2008, Federal Ministry for Labour, Social Affairs and Consumer Protection, p. 22. See also Statement on Poverty and Disability, page 2.

<sup>28</sup> Silvia Paierl.

<sup>29</sup> See also, World Health Organization/World Bank, World Disability Report 2011.

vulnerability and the support needs of women with disabilities in this context. The Monitoring Committee has provided recommendations on poverty related issues in July 2010.

### **Health of women and girls with disabilities**

The Monitoring Committee shares the concerns of the CEDAW Committee about the access of women with disabilities of all ages to health services and underlines the need for enhanced measures to *ensure that health services are sensitive to the needs of women with disabilities and are respectful of their human rights and dignity*.<sup>30</sup>

In the context of health of women with disabilities, legal capacity is an important factor. Note that the European Court of Human Rights has concluded that medical treatment without consent is not contrary to Article 8 (Right to Privacy) if the State can convincingly show that it was necessary and the individual lacked capacity to give informed consent.<sup>31</sup>

The Monitoring Committee urges the establishment of comprehensive accessibility of hospitals and medical practices in Austria. The training of medical staff must include gender and disability sensitive aspects. Furthermore, support services for women with learning or psychosocial disabilities that offer medical consultation e.g. on sexuality, contraception and abortion are lacking.

### **Family Life of women and girls with disabilities**

The Monitoring Committee is concerned about the persistent discrimination against women with disabilities with regard to family life. Discrimination derives from stereotypes that deny them the ability of fulfilling parental duties adequately and of leading an independent family life along with a tremendous lack of adequate support measures for parents with disabilities,<sup>32</sup> particularly women with intellectual impairments.<sup>33</sup>

The Monitoring Committee stresses the urgent need for social conditions that enable mothers and parents with disabilities to fulfil parental duties and to enjoy the right to family on an equal basis with others. Adequate and specific support services and networks for mothers with disabilities (and especially for mothers with intellectual impairments) are inadequate. Comprehensive measures including personal assistance during pregnancy and parenthood, capacity building measures and

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<sup>30</sup> CEDAW General Recommendation 24, para 25.

<sup>31</sup> *Herczegfalvy v Austria*, Application no. 10533/83, 24 September 1992, paras 82-83 and 86.

<sup>32</sup> Ferrares, *Behinderte Frauen und Mutterschaft. Eine Bestandaufnahme*, in: *Behinderte in Familie, Schule und Gesellschaft*. Nr. 1/2001, <http://bidok.uibk.ac.at/library/beh1-01-ferrares-mutterschaft.html>

<sup>33</sup> Kassoume, *Unterstützungsangebote bei Schwangerschaft und Elternschaft von Menschen mit Lernschwierigkeiten in Wien*, 2006, <http://bidok.uibk.ac.at/library/kassoume-schwangerschaft.html>

The question of sterilization has been elaborated above under the topic violence. Sterilization constitutes a serious form not only of gender-based violence but also of discrimination against women in matters of family relations.

awareness raising measures are strongly needed in order to enable women with disabilities to live up to their right of leading a self-determined family life.

### **Inclusive Development**

Both CEDAW and CRPD apply to the development policies of Austria; the latter has a more specific provision to that effect. The Monitoring Committee has recently underscored the obligations of the State in relation to accessible and inclusive planning of development policies, particularly with a view to improving the situation for women and girls with disabilities.<sup>34</sup>

The Monitoring Committee would like to reiterate the recommendations of the World Report on Disabilities, which underscores that women and girls with disabilities experience the aggravated disadvantages associated with gender as well as disability. Studies in the report show significantly higher prevalence rates of disabilities in women than in men, and lower access to health, education, and employment as compared to non-disabled women [as well as to disabled and non-disabled men]. While acknowledging gender as a crosscutting issue in Austria's international co-operation, an emphasis should be placed on women and girls with disabilities, accordingly.

## **Annex:**

Unabhängiger Monitoringausschuss

zur Umsetzung der UN-Konvention über die

Rechte von Menschen mit Behinderungen

**MonitoringAusschuss.at**

### **UNOFFICIAL TRANSLATION**

## **Rules of Procedure**

1. a) Based on § 13 of the Federal Disability Act (FDA; Federal Law Gazette No. 283/1993 as revised in Federal Law Gazette No. 109/2008) and in line with the duties and responsibilities of the Federal Disability Council in accordance with § 8 Sec 2 Para 4 FDA,
2. b) For the purpose of domestic implementation and monitoring of the Convention in the Rights of Persons with Disabilities (ratified by Federal Law Gazette III No. 155/2008) and in accordance with its Article 33 Para 2 and 3 (hereinafter Convention),
3. c) In the spirit of the Paris Principles (Resolution of the General Assembly of the United Nations No. 48/134 including Annex) and the involvement of civil society in the independent monitoring of human rights, their promotion and protection, prescribed therein,

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<sup>34</sup> Monitoring Committee, Statement on Inclusive Humanitarian and Development Aid, April 2012.

4. d) Based on the general principles: individual autonomy of persons with disabilities, equality and non-discrimination, inclusion, full and effective participation in society, respect for the difference of human beings, equality of opportunity, accessibility, and equality between men and women as well as the advancement of children with disabilities (Article 3 Convention),
5. The Monitoring Committee establishes its

## Rules of Procedure:

### Members of the Committee

6. **§ 1.** (1) The members (substitute members) of the Committee, appointed by the Minister for Labour, Social and Consumer Affairs with due regard to the proposals by the Austrian National Council for Disabled Persons (ÖAR), are:
  7. Four representatives of disabled people's organizations (and one substitute member each)
  8. One representative of a non-governmental organization in the field of human rights (and one substitute member)
  9. One representative of a non-governmental organization in the field of international development (and one substitute member)
  10. One representative of academia (and one substitute member).
11. (2) A representative of the Ministry for Labour, Social and Consumer Affairs (BMASK) and of the department or the highest level of the administration concerned, participate in an advisory capacity.
12. (3) The members of the Committee are independent and not bound by any directives or orders.
13. (4) Membership in the Committee is an unpaid honorary office. The members and substitute members are to receive reimbursement for their travel and sojourn expenses in accordance with the rules set out for lay judges and jury members in the 1975 *Expenses Claim Act*. This includes also personal assistance as well as interpretation services, particularly for sign languages.
14. (5) The members and substitute members are appointed for a period of four years. Following the discharge of the mandate the old Committee has to continue its office until the new Committee convenes. The time elapsed during the continuation of the office by the old Committee shall count toward the term of office of the new Committee.
15. (6) The members and substitute members of the Committee are bound by the same level of confidentiality as the representative who discharges his or her mandate toward the Committee.

### Duties & responsibilities

16. **§ 2.** (1) The Committee monitors the domestic implementation of the Convention on the Rights of Persons with Disabilities.
17. (2) The Committee promotes and protects the human rights of persons with disabilities.
18. (3) The Committee advises the legislature, the government, the administration – particularly the BMASK – and the judiciary.
19. (4) The Committee compiles reports to the legislature, the government, the administration – particularly the BMASK – and the judiciary.

20. (5) The Committee issues recommendations on all questions related to the promotion, implementation and monitoring of the Convention (Art. 33 Para. 2 Convention).
21. (6) The Committee assesses the legal and administrative rules in force as well as corresponding practice and issues recommendations for amendments.
22. (7) The Committee compiles statements on draft legislation and decrees.
23. (8) The Committee recommends new legislative and administrative rules.
24. (9) The Committee examines data and statistics.
25. (10) The Committee contributes to the awareness raising and sensitisation of the public, also through public relations work.
26. (11) The Committee collaborates with schools, universities, other educational institutions, medical, social and other relevant institutions.
27. (12) The Committee cooperates with institutions, agencies and bodies nationally and internationally, foremost with representatives of civil society, particularly with persons with disabilities and their representative organizations, to include them in the monitoring process.
28. (13) The Committee cooperates in particular with the focal points and coordination mechanism established in accordance with Art. 33 Para. 1 of the Convention.
29. (14) The Committee cooperates with the independent authorities, which are to effectively monitor all facilities and programmes designed to serve persons with disabilities in order to prevent the occurrence of all forms of exploitation, violence and abuse (Art. 16 Para. 3 Convention).
30. (15) Based on the unlimited application of the Convention for all parts of the State (*Länder*) – Art. 4 Para. 5 Convention – the Committee cooperates in particular with the “authorities of the *Länder* that are to be established or named” in accordance with § 13 Para. 8 BBG.
31. (16) The Committee cooperates with agencies related to the Convention abroad, in particular with other monitoring committees under Art. 33 Para. 2 of the Convention as well as the Committee on the Rights of Persons with Disabilities (Art. 34 Convention), to which it will report as required.
32. (17) The Committee advises and supports individuals and groups who want to file a communication with the Committee on the Rights of Persons with Disabilities established in line with Art. 34 of the Convention.
33. (18) The Committee deals with complaints, which can also be submitted informally, by the complainants or their representatives (including representative organizations) on asserted violations of the Convention; the Committee can also inquire into the presumption of a violation of the Convention ex-officio.
34. a. Based on a complaint or a presumption the Committee can request further information from the authority or institution in question as well as a statement from the administrative bodies (§ 13 Para 2 Sub 2 BBG).
35. b. For this purpose the Committee may seek the consent of the concerned person or their representative in compliance with data security regulations.
36. c. The Committee can, in line with data protection, seek the expertise of experts and civil society organizations, particularly organizations which represent persons with disabilities.
37. d. The Committee can invite the complainant or her/his representative to a dialogue.
38. e. The Committee examines the complaint or presumption, can make a statement within reasonable time, and makes a recommendation in case of a violation.
39. (19) The Committee informs the public as necessary in all matters related to monitoring.

## Competences

**§ 3.** In discharging their mandate committee members have, if necessary, also as a delegation as well as in cooperation with experts, particularly

40. unlimited access to all relevant institutions and authorities necessary to discharge the mandate;
41. an unlimited right to inspect files, the content of which is naturally covered by public confidentiality (§ 1 Para 6);
42. the possibility to request statements from administrative bodies (§ 13 Para 2 Sub 2 BBG);
43. the possibility to request data and statistics (Art 31 Convention).

## Chairperson and Rapporteur

44. **§ 4.** (1) Following the appointment of the new Committee, the Federal Ministry for Labour, Social and Consumer Affairs shall call a constituting meeting. The eligible members shall elect a chairperson and a deputy with simple majority for the term of office. The chairperson (her/his deputy) can be removed with a two third majority vote.
45. (2) The members entitled to do so elect with single majority a rapporteur and a deputy. The rapporteur (her/his deputy) can be removed with a simple majority.

## Meetings of the Committee

46. **§ 5.** (1) Meetings of the Committee are to be convened when necessary, at least four times a year. The dates are determined by the chairperson in coordination with the members and the Ministry for Labour, Social and Consumer Affairs. The Committee must also be convened when one third of the members submits a written request stating the purpose.
47. (2) The invitation should be sent to the members together with the agenda two weeks ahead of the meeting. If individual cases are to be discussed, the relevant information shall be added to the agenda.
48. (3) The venue, the documents and the communication of the Committee are accessible.
49. (4) On decision of the Committee the meetings are public, foremost to ensure the inclusion of representatives of civil society, particularly persons with disabilities and their representative organizations in the monitoring process.

## Quorums

50. **§ 6.** (1) When all members have been duly invited, the Committee has a quorum if at least half of the members entitled to vote are present. If all members have been duly invited, the Committee also has the necessary quorum, if, 30 minutes after the set starting time for the meeting, less than half of the members are present. The Committee adopts its decisions with a simple majority of the votes cast. In case of a tie of votes, the vote of the chairperson shall decide.
51. (2) An amendment of the rules of procedure requires the approval of two thirds of all members entitled to vote.

52. (3) If necessary, a decision can also be made by circular resolution, which is to be noted in the minutes of the next meeting.

## Experts and working groups

53. § 7. (1) On suggestion by the chairperson or a minimum three eligible members, experts can be added to the meetings or other business of the Committee in an advisory capacity. Experts are eligible for the same reimbursement as the members (§ 1 Para 3).

54. (2) The Committee may form working groups as needed.

## Annual Report

§ 8. The Committee reports on its activities at least once annually to the Federal Disability Council. The chairperson or a member of the Committee eligible to vote named by her/him may participate in the meetings of the Federal Disability Council in an advisory capacity.

## External Representation

55. § 9. (1) The representative of the Committee is the chairperson and in case of her/his unavailability, her/his deputy.

56. (2) For official correspondence the letterhead „Independent Monitoring Committee for the Implementation of the UN Convention on the Rights of Persons with Disabilities“ shall be used.

## Secretariat

57. § 10. (1) The secretariat of the Committee is run by the Ministry for Labour, Social and Consumer Affairs. The Ministry for Labour, Social and Consumer Affairs supports the Committee in discharging its mandate.

58. (2) The head of the department in the Ministry for Labour, Social and Consumer Affairs or one of her/his deputies participates in the deliberations of the Committee. The Ministry for Labour, Social and Consumer Affairs supports the rapporteur in drawing up the minutes and the meeting's results.

59. (3) In lieu of an independent budget, accrued expenditures are covered by the Ministry for Labour, Social and Consumer Affairs after seeking agreement and the Ministry provides direct support by providing necessary resources respectively.

60. (4) Minutes are compiled for every meeting by staff of the Ministry for Labour, Social and Consumer Affairs, which is signed by the rapporteur and the chairperson. The members and deputy members are to receive a copy of the minutes.

61. (5) The Ministry for Labour, Social and Consumer Affairs undertakes to archive complaints, measures taken and statements issued.

## Federal Social Office

§ 11. The Federal Social Office (*Bundessozialamt, BSB*) and – also in its capacity of serving people concerned in regional centers – its *Länder* offices support the Committee in discharging its mandate. As a general rule the communication between the Committee and the Federal Social Office is to be facilitated by the secretariat of the Committee. In compliance with § 13 Para 7 BBG, particularly with a view to the pertinent information possibilities of the Federal Social Agency,

62. the Federal Social Office receives complaints on the Committee's behalf and proactively provides counselling on possible provision of support and specified referrals respectively;
63. insofar possible, the Federal Social Office alerts the Committee to Convention related issues, particularly potential structural problems;
64. supports research in individual cases and provides information related to its mandate.

### **Accessible Formats**

**§ 12.** The rules of procedure are to be made available in accessible formats, this includes in particular Braille, sign languages, easy-read and auditive forms.