

Independent Monitoring Committee

For the Implementation of the UN Convention on the

Rights of Persons with Disabilities

MonitoringAusschuss.at

(§ 13 Federal Disability Act)

a) Based on § 13 of the Federal Disability Act (BBG; 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 BBG,

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) an in accordance with its Article 33 Para 2 and 3 (hereinafter Convention),

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,

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),

The Monitoring Committee establishes its

Rules of Procedure:

Members of the Committee

§ 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:

- a. Four representatives of disabled people's organizations (and one substitute member each)
- b. One representative of a non-governmental organization in the field of human rights (and one substitute member)
- c. One representative of a non-governmental organization in the field of international development (and one substitute member)
- d. One representative of academia (and one substitute member).

(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.

(3) The members of the Committee are independent and not bound by any directives or orders.

(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. In addition the chairperson is entitled to receive compensation for her or his activities according to § 13 Para 5a BBG.

(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.

(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

§ 2. (1) The Committee monitors the domestic implementation of the Convention on the Rights of Persons with Disabilities.

(2) The Committee promotes and protects the human rights of persons with disabilities.

(3) The Committee advises the legislature, the government, the administration – particularly the BMASK – and the judiciary.

(4) The Committee compiles reports to the legislature, the government, the administration – particularly the BMASK – and the judiciary.

(5) The Committee issues recommendations on all questions related to the promotion, implementation and monitoring of the Convention (Art. 33 Para 2 Convention).

(6) The Committee assesses the legal and administrative rules in force as well as corresponding practice and issues recommendations for amendments.

(7) The Committee compiles statements on draft legislation and decrees.

(8) The Committee recommends new legislative and administrative rules.

(9) The Committee examines data and statistics.

(10) The Committee contributes to the awareness raising and sensitisation of the public, also through public relations work.

(11) The Committee collaborates with schools, universities, other educational institutions, medical, social and other relevant institutions.

(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.

(13) The Committee cooperates in particular with the focal points and coordination mechanism established in accordance with Art. 33 Para 1 of the Convention.

(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).

(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.

(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.

(17) The Committee advises 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 on formal matters and existing support offers.

(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.

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).

b. For this purpose the Committee may seek the consent of the concerned person or their representative in compliance with data security regulations.

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.

d. The Committee can invite the complainant or her/his representative to a dialogue.

e. The Committee examines the complaint or presumption, can make a statement within reasonable time, and makes a recommendation in case of a violation.

(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

- a. unlimited access to all relevant institutions and authorities necessary to discharge the mandate;
- b. an unlimited right to inspect files, the content of which is naturally covered by public confidentiality (§ 1 Para 6);

- c. the possibility to request statements from administrative bodies (§ 13 Para 2 Sub 2 BBG);
- d. the possibility to request data and statistics (Art 31 Convention).

Chairperson and Rapporteur

§ 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 at least one deputy with simple majority for the term of office. The chairperson (her/his deputy) can be removed with a two third majority vote.

(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

§ 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.

(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.

(3) The venue, the documents and the communication of the Committee are accessible.

(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

§ 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.

(2) An amendment of the rules of procedure requires the approval of two thirds of all members entitled to vote.

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

(4) If a decision is not unanimous, members of the Committee or substitute members entitled to vote are entitled to urge to enter their voting and the explanation of their objection in the minutes. If the decision is made in circular procedure, this has to be protcolled in the minutes of the following meeting.

Experts and working groups

§ 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).

(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

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

(2) The chairperson, in case of her/his unavailability, her/his deputy, may delegate singular tasks of representation to members or substitute members of the Committee.

(3) 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

§ 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.

(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.

(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.

(4) Minutes are compiled for every meeting by staff of the Ministry for Labour, Social and Consumer Affairs, which have to be approved by the rapporteur and the chairperson. The members and substitute members are to receive a copy of the minutes.

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

Social Ministry Service

§ 11. The Social Ministry Service (*Sozialministeriumservice*) 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 Ministry Service 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 Social Ministry Service,

- a. the Social Ministry Service receives complaints on the Committee's behalf and pro-actively provides counselling on possible provision of support and specified referrals respectively;
- b. insofar possible, the Social Ministry Service alerts the Committee to Convention related issues, particularly potential structural problems;
- c. 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, and easy-read.