

**ESSL SOCIAL INDEX
PILOT STUDY 2010**

SITUATION OF PERSONS WITH DISABILITIES

Implementation of the UN Convention
in 15 countries and in nine Austrian federal provinces
based on 40 social indicators.

Imprint

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KEY TO TRAFFIC LIGHT COLOURS

- YES
- YES, WITH QUALIFICATIONS
- NO
- Not applicable/
No data available

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The Goals of the Essl Social Indices

As owners of the bauMax Group, the Essl Family has been involved in social affairs as a business as well as privately for many years. In 2007 Martin and Gerda Essl established the Essl Foundation (the Martin and Gerda Essl Social Prize Private Nonprofit Foundation) in order to bundle their social activities under the auspices of one organisation.

Essl Social Prize

The Essl Social Prize is the main activity of the Martin and Gerda Essl Social Prize Private Nonprofit Foundation. It was established in 2008 and distinguishes social entrepreneurs for their life's work. Together with the laureate, the Essl Foundation uses the annual EUR 1 million in prize money to develop and implement a social innovation in the form of a role model.

Essl Social Index

The Essl Social Index is the Essl Foundation's second major project and represents an entirely new approach to being able to advocate for the concerns of socially disadvantaged persons on a broad basis. The scientifically rigorous, yet clear appraisal of inequalities and injustices is proven to be an efficient method for garnering the interest of the media, thus also policymakers, in otherwise elusive issues, and for achieving improvements in this manner. The Pisa Study and Millennium Development Goals are particularly outstanding examples of this. But foundations and civil society have been doing remarkable work in this field for considerable time as well; the Mo Ibrahim Foundation's African Governance Index, the NGO Transparency International's Global Corruption Report and the Bertelsmann Foundation's Transformation Indices are worth mentioning in this regard.

The First Essl Social Index for Disability Governance

The Essl Social Index for Disability Governance, which surveys the legal situation and living conditions of persons with disabilities, kicks things off in 2010. Before you lies the first pilot study for the first Essl Social Index, which has been published after more than two years of preparation. We are delighted about this initial milestone and, with commitment and in cooperation with numerous partners, look forward to taking up these challenges for the benefit of persons with disabilities.

Improvements can only be made together

Like the Essl Social Prize, the Essl Social Index aims to make a direct contribution to the improvement of social systems and underlying conditions and enhancement of their efficiency internationally, but not primarily at the cost of greater social spending. As the present study shows, good solutions often do not cost more, but frequently result in even less expense. Moreover, it is of particular importance in the long term to develop Austria into an exemplary country in the social affairs sector, to harmonise the disparities between the federal provinces, and to promote the minimum standards within the European Union.

This can only be achieved together with everyone involved, particularly with the disabled themselves, the representatives of their interests, the NGOs and responsible politicians. As a source of data and information, the Essl Social Index is to serve as the foundation for improved decision-making among politicians, public servants and the employees of infrastructure operators, educational and cultural institutions in order to improve the quality of life as well as the legal situation.

I would like to thank all of those who have collaborated on this, particularly author Dr. Michael Fembek and his team together with all of the persons concerned, scholarly advisors, interest representatives and NGOs who with their enormous commitment played an important role in the realisation of the present study. My sincere thanks is also owed to EU Commissioners Vladimír Špidla und Benita Ferrero-Waldner as well as Ashoka founder and Essl Social Prize Laureate 2010 Bill Drayton, who not only provided us with particularly helpful hints for the creation of the first Essl Social Index, but on a personal level encouraged me to pursue the path embarked upon here. May it initiate a movement which engenders a spirit of transformation in civil society so that in the future many of the disadvantaged can be helped on an international basis as well. With the help of social innovation and the courage to change, this should be possible through the efficient deployment of resources.

Martin Essl
Founder and Chairman of the Essl Foundation,
November 2010

The Methods of the Essl Social Indices

There is an entire range of familiar and unfamiliar indices for measuring social relations. But what has been lacking thus far is a comprehensive system of indices and social indicators which provide specific criteria on the living conditions and legal situation of disadvantaged persons and groups of persons. This is where the Essl Social Indices come in: by international (and with federally governed states also regional) comparison of social indicators, weaknesses are to be identified and solutions offered.

For the most urgent social problems Essl Social Indices are to be successively developed with the long-term goal of establishing an entire family of indices which is regularly surveyed, improved and expanded. The index on persons with disabilities is the first of these.

One particular aim of the Essl Social Indices is to develop the most specific criteria for improvements. This places special demands on the selected social indicators: in addition to a recognised weakness, to the extent possible a solution in the form of a good practice example is borrowed from another country (or federal province) and presented.

Good practice examples

One of the characteristics of the social sector is that social innovations and more efficient solutions have not gained currency automatically. The Essl Social Indices intend to make an improvement in this regard as well. The result is not only an easy-to-understand illustration of the strengths and weakness of individual states or individual provinces using traffic light images; the models which could serve as exemplary are also described in more detail.

Involvement of NGOs and civil society

The Essl Foundation cannot and does not intend to develop the Essl Social Indices on its own. Thus the present pilot study was produced in collaboration with NGOs, social organisations as well as the individuals involved and those representing their interests. They not only assisted in the development and research of the social indicators, but are to utilise the results in their argumentation and pass them on. Together with the media as well as with courageous and committed policymakers, this is the stuff from which change for the better can arise.

International orientation

The present pilot study was produced from the "Austrian perspective" on the basis of the situation in Austria as well as with the specific intention of being carried out here first. What makes sense in Austria would appear to do so in every other state. The entire orientation of the Essl Social Indices is international: through a network of already over 60 partners comprised of universities, foundations and NGOs, the social indicators are not only to be continually surveyed, but constructed in such a way that they are relevant as comparisons for a growing number of countries.

As a result, data is to be collected for the Essl Social Indices by foundations and NGOs in their own country. The Essl Foundation will make the global study's results available to all of the partner organisations involved so that they can be adapted in every country according to their needs (white labelling).

Highly promising initial results

The present pilot study, the production of which took nearly two years, reveals remarkably pronounced disparities between the first 15 countries in which the social indicators were surveyed. At the same time, they provide a large number of criteria for improvement.

In cooperation with the NGOs and the persons concerned in Austria, the present findings are now under discussion and proposals being made for further development and implementation in specific improvements. At the same time, steps have already been taken with which the Essl Social Index 2011 can be produced as a comparative study of at least 30 states worldwide.

Michael Fembek

**Author of the Pilot Study Essl Social Index 2010,
November 2010**

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Executive Summary

The essential information on the first Essl Social Index for Persons with Disabilities and the most important results are summarised in the Executive Summary. More in-depth information can be found most simply using the table of contents and the page references there. All of the research results are printed in the annex.

For many years the Essl Family, the family of owners behind the bauMax Group, has been involved in social affairs as a business as well as privately. In 2007 Martin and Gerda Essl established the Essl Foundation (Martin and Gerda Essl Social Prize Private Nonprofit Foundation) in order to bundle their social activities under the auspices of one organisation.

The Essl Social Index is one of the Essl Foundation's social projects which is aimed at being able to advocate for the concerns of socially disadvantaged persons on a broad basis. The Essl Social Indices provide concrete criteria on the living conditions and legal situation of disadvantaged persons and groups of persons through an international (and in federally governed countries such as Austria also regional) comparison of social indicators.

The Essl Social Index is compiled and developed on a national and international basis together with foundations, NGOs and interest representatives of the disadvantaged persons and groups of persons. Internationally a partnership network is established for every index. One particular aim of the Essl Social Indices is to develop the most concrete criteria for improvements. This places special demands on the selected social indicators: in addition to a recognised weakness, to the extent possible a solution in the form of a good practice example from another country (federal province) is developed and presented.

Thus in the medium term an index family will be established and continually updated, starting with the Essl Social Index for Disability Governance (ESI-DG).

The Essl Social Index for Disability Governance (ESI-DG)

For the ESI-DG 44 social indicators were constructed and surveyed; the results of 40 of them are being

published. In order to enhance clarity and comparability, all of the results have been summarised in traffic light colours, with "green" representing a good solution, "orange" a partial solution, and "red" an unsatisfactory solution.

In terms of content, the ESI-DG is oriented exclusively toward implementation of the UN Convention on the Rights of Persons with Disabilities: within a short time the UN Convention on the Rights of Persons with Disabilities has become the most significant and most recognised body of legislation on the implementation of the rights of persons with disabilities. Countries that have ratified the UN Convention must also incorporate it into their legal system. Thus the articles of the UN Convention are not only demands of the parties concerned and those who represent their interests for targets concerning equal treatment, options for accessibility and a self-determined life, but concrete and measurable targets to be achieved by the ratifying countries.

Based on concrete examples, the social indicators render discernible the extent to which the UN Convention has already been incorporated into the legal system and lived experience of persons with disabilities in the various countries: differences between the countries (and in Austria between the nine federal provinces, as quite a few rules and structures exist at the provincial level) are thus revealed.

The present results encompass not only the gaps and need for remediation, but also offer direct criteria for processes of improvement and transformation: a number of exemplary solutions – good practice examples – were developed and frequently show not only which country is a pioneer in which issue, but what a concrete solution involves.

The Essl Social Index for Disability Governance (ESI-DG) does not intend to replace the supervisory, control and reporting mechanisms that exist at various levels,

but to provide them with additional instruments, arguments and facts and to reinforce them. Specifically, the monitoring process stipulated as part of the UN Convention is to be complemented and reinforced with detailed information provided by the ESI indicators.

Making the implementation of the UN Convention measurable

A series of articles from the UN Convention can serve as a standard through the type of questioning and surveying depicted above. Specifically, these are Articles 8 to 33, based on the fulfilment and implementation of which specific questions may be asked. For most of these articles one to three social indicators were constructed. For all of the rights such as "universal accessibility" demanded in the articles social indicators were constructed which can render the degree of fulfilment discernible using a traffic light (as, for ex. with the accessibility of the bus system in the capital or of newly built public buildings).

The construction of these social indicators was one of the major challenges of the present pilot study, as they had to accommodate a variety of requirements such as the creation of measurable, representative and internationally comparable facts, coverage of the entire spectrum of the UN Convention and objective surveyability in countries with varying legal and social systems. The lack of internationally recognised definitions of "disability" and consequently of international statistics is one of the biggest obstacles to overcome in this regard.

The survey of the first ESI-DG ultimately took place in the second quarter of 2010 using questionnaires and an online tool both in German as well as in English. More than 30 organisations in 15 countries and in the Austrian provinces took part. The ESSL Foundation was not only supported by numerous NGOs, but also by the European Foundation Center in Brussels and the International Disability Rights Monitor (IDRM) in the USA. The survey was scientifically supported by the KfW Endowed Chair for Entrepreneurial Finance at the Technical University of Munich (TUM). It was concluded at the end of October 2010.

Overall Points Ranking

Ranking	Green	Orange	Red	n.a.	Total*
1. Sweden	25	3	8	4	57
2. United Kingdom	19	14	3	4	56
3. Portugal	21	8	10	1	51
4. Spain	12	22	4	2	50
5. Denmark	15	16	9	0	46
6. Slovenia	15	15	10	0	45
7. Austria	12	18	10	0	42
8. Hungary	9	22	8	0	40
9. Germany	10	19	11	0	39
10. Switzerland**	12	10	17	1	35
USA/NY**	10	12	15	3	35
Canada	6	14	10	9	35
13. Ireland**	8	18	14	0	34
Turkey	8	15	14	3	34
15. Romania**	7	17	16	0	31

* Green=2 points, Orange, n.a.=1 point, Red=0 points

** Did not ratify the UN Convention, which automatically yields fewer obtainable points

An overall - non-scientific - points ranking coincides to a greater extent with the result anticipated by experts: the Scandinavian as well as Iberian countries are at the top, continental Europe is midrange and Central and Eastern Europe at the bottom. The poor performance particularly of the USA (New York State) and of Switzerland and Ireland is astonishing, but is partly attributed to the fact that some points are automatically eliminated due to non-ratification of the UN Convention (Questions 1, 2, 3 and 44). In contrast, Slovenia and Hungary are noticeably well-positioned.

Ranking	Green	Orange	Red	n.a.	Total*
1. Vienna	6	8	4	0	20
2. Styria	5	6	6	1	17
Tyrol	4	9	5	0	17
4. Upper Austria	4	7	6	1	16
Vorarlberg	3	7	5	3	16
6. Burgenland	4	3	7	4	15
Carinthia	4	4	7	3	15
Lower Austria	3	6	6	3	15
9. Salzburg	3	7	7	1	14

An overall assessment based on this – (see above) non-scientific – method would show Vienna as the federal province in the clear lead. Among the other federal provinces, Styria and Tyrol have implemented considerably more in accordance with the UN Convention than Burgenland, Carinthia, Lower Austria and Salzburg, which is last in this ranking.

The most important results/ individual assessments

- Barrier-free accessibility and universal access were consistently implemented neither in buildings nor in means of public transportation. Sweden (rated the best overall) is viewed especially critically in this regard, while Spain, Portugal, Ireland and United Kingdom take the lead with respect to the barrier-free accessibility of buildings.
- As far as the recognition of rights and access to the system of justice are concerned, Austria, together with Hungary and Denmark, is one of the countries rated the best by respondents, while the NGOs in the Anglo-American countries see major deficits in this area.
- Concerning personal assistance and assistance in the workplace, Sweden clearly plays an exemplary role; for all other countries there are significant problems diagnosed in this regard.
- There are particularly wide disparities in achieving the target of an inclusive educational system. Portugal, United Kingdom and Sweden are the countries that take the lead in this regard, and the countries in Central and Eastern Europe show the biggest deficits.
- The circumstances are similar with the social indicators concerning the accessibility of the medical system.
- Regarding access to employment, Austria generally performs comparatively well together with Canada, Sweden and Portugal, while Switzerland and the USA exhibit conspicuous gaps.
- With accessibility to the range of cultural options Sweden is again dominant. Austria has one particularly striking deficit concerning available statistics, where – together only with Germany – it is rated “red” in all three questions.
- The USA, Ireland, Romania and Switzerland have not ratified the UN Convention; Canada and United Kingdom have ratified it, but its effectiveness is notably limited.

Where Austria has specific need for remediation

No extensive statistics on persons with disabilities in institutions, regarding the level of education, professional qualifications, etc. (Questions 41 and 42, Article 31, Page 100)

There is no general Austrian overview of where and how persons with disabilities live. In particular, there is a lack of figures concerning accommodation in institutions, the average length of stay, the number of new admissions and discharges, distribution according to age and gender, etc. There are also no comparable or regularly gathered data on other forms of accommodation. Compared to this, the situation is exemplary in United Kingdom, where an authority called the “Care Quality Commission” survey such information on an annual basis.

The statistics are also unable to impart a clear picture on the level of education and employment of persons with disabilities.

The lack of such data is all the more alarming because it could significantly improve decision-making in current political issues, such as a change in the protection from dismissal or the needs-based development of residential options for persons with disabilities.

(Question 29, Article 24, Page 78)

No efficient control mechanisms for limiting the stay in institutions (Question 20, Article 19, Page 60)

In Austria there is legal entitlement to a fully assisted place of residence, but no legal entitlement to a specific place of residence, nor any legal entitlement to assisted living or assistance at home. This inevitably results in many persons with disabilities living forcibly in institutions.

In Denmark, Slovenia and in Sweden NGOs confirm that in practice the right to choose also exists (in Sweden, moreover, there are no institutions in the Austrian understanding of the word).

Restrictions in the right to marry, have and raise children (Question 24, Article 23, Page 68)

Although these rights are already clearly stipulated for all persons in the Universal Declaration of Human Rights of 1948, according to information from NGOs, in Austria they are also continuously violated. Persons

with (mental and psychological) disabilities are frequently unable to decide of their own volition with whom they want to live. Sterilisation is systematically advised to family members and guardians in order to “at least avoid the problem of unwanted pregnancy”. NGOs certify a better compliance with this human right in Denmark, Sweden and United Kingdom.

No ban on cage beds (Cage beds, Question 16, Article 15, Page 52)

Austria is one of the few countries in which cage beds are still legal, and not only that, also still in use, as one international report from 2009 massively criticised.

In many other countries cage beds are either prohibited or NGOs confirm that they are no longer in use.

Medical practices and pharmacies will not be barrier-free accessible for years to come (Question 32, Article 25, Page 82)

Medical practices in Austria – based on the current legal situation – are barrier-free accessible less often than in other countries. Only group practices (very rare) are generally required to be barrier-free accessible, otherwise just newly established medical practices are. And in this case only the law for all publicly accessible buildings generally applies. Neither lawmakers nor the Austrian Medical Chamber ensure the more rapid development of general barrier-free accessibility. In United Kingdom the legal situation is different: there physicians have been required to make their practices barrier-free accessible since 2004, and according to the NGOs, this has also largely been done. For pharmacies the situation is better in every country surveyed: in six of the 15 countries NGOs confirm that pharmacies are generally required to be barrier-free accessible. In Austria this has also applied since February 2010, but with numerous exceptions such as for “technically unwarranted expense”, the preservation of historic monuments, and for flood-endangered areas.

No compulsory training for architects in matters of barrier-free accessibility (Question 5, Article 8, Page 34)

Architects familiar with the practice of barrier-free construction undoubtedly plan buildings that are better and more universally accessible than those not trained

in this area. Despite this, barrier-free accessibility and universal accessibility in the professional training of architects are not compulsory subjects. In addition to Austria, this also applies to most of the other countries in which the surveys were conducted, with the exception of Denmark where it is obligatory for this to be taught.

Exhibits are not required to be accessible for the visually and hearing impaired (Question 39, Article 30, Page 96)

In four countries – Switzerland, Sweden, United Kingdom and Portugal – all public (and publicly funded) museums are obligated to make their exhibits accessible to persons with visual and hearing disabilities. In Austria this is not the case, but there are several museums which are very consciously setting a trend in this regard. This obviously runs contrary not only to the UN Convention, but the principle of equality as well.

No universally accessible, official versions of the UN Convention available (Question 3, Articles 2, Page 32)

Thus far Austria has published neither an official German-language binding version of the UN Convention, nor versions in audio formats or plain-language. In contrast, Germany and Hungary have been exemplary in fulfilling this UN Convention requirement, with access provided via the ministries’ websites.

Where Austria is a frontrunner

Restriction of guardianship for personnel in institutions (Question 14, Article 13, Page 48).

In Austria, in the selection of a guardian, consideration is to be taken so that the guardian is not in a relationship of dependence or in another close relationship with a hospital, home or other institution in which the disabled person resides or from which he or she receives care. This is regulated in a similarly clear manner in just three of the 15 countries.

Inclusive education in primary schools in some federal provinces (Questions 25 and 27, Article 24, Page 70 and good practice examples, page 140)

A percentage rate of 85 in Styria for disabled primary school children who are taught in inclusive classes is an outstanding figure in international terms. Only in Portugal and in the USA (New York State) are the average percentage rates likewise over 75 percent.

Sign language as an officially recognised language (Question 15, Article 13, Page 50)

In Austria sign language is recognised in the Federal Constitution as an official language, along with the consequent right to an interpreter. There is no standardised sign language, however.

Inequalities between the federal provinces

Differences in inclusive schooling (Questions 25 and 27, Article 24, Page 70)

At the federal level Austria has legally established the inclusive education required by the UN Convention. However, there is not only a major discrepancy between theory and practice, as the statistics (available here as an exception) show. There are also serious discrepancies between the individual federal provinces: while in Styria some 85 percent of all primary school children with disabilities attend inclusive primary schools (thus only about 15 percent attend special schools), in Lower Austria and in Vorarlberg this share is only somewhat more than a third (37.6 and 36.5 percent, respectively).

Varying degrees of accessibility to new, publicly accessible buildings (Questions 6 and 8, Article 9, Page 36)

A directive issued by the ÖIB (Austrian Institute of Construction Engineering) is meant as an important step toward the harmonised Austria-wide implementation of barrier-free construction methods. This directive, the implementation of which is established in the current Executive Agreement, has been ratified by just five federal provinces thus far: Burgenland, Upper Austria, Tyrol, Vorarlberg and Vienna.

There are also wider disparities within Austria regarding the implementation of the objective of the UN Convention and Austrian Federal Act on the Equalization of Persons with Disabilities to make all public buildings (thus official buildings, courts, schools, universities, etc.) barrier-free accessible by 2015. Only in Vienna

has it also been established in law at the provincial level.

Public buses with varying barriers to accessibility (Questions 9 and 10, Article 9, Page 40)

Although all urban transportation companies are gradually making their buses, trams and metros barrier-free accessible, in two points there are pronounced differences: on the one hand in the pace of introduction, which can also be measured by the disclosure of a time frame; and on the other hand that barrier-free accessibility also applies to persons with mental and psychological disabilities and in this regard means specifically the training of drivers and other personnel.

No data on employment in public service (Question 35, Article 27, Page 88)

One general flaw of all of the federal provinces: while the Republic of Austria regularly announces how many persons with disabilities it employs in its agencies and offices, the nine federal provinces seldom do.

"Focal point" implemented only in Vienna (Question 44, Article 33, Page 106)

At the federal level Austria has installed a "focal point" in accordance with the UN Convention which helps govern the implementation of the UN Convention. As based on the federal principle there are also important administrative authorities at the provincial level in Austria, these "focal points" are to be introduced at the provincial level as well. At the time this study went to print, this had only been carried out in Vienna.

Exemplary solutions and good practice examples concerning implementation of the UN Convention

System of "personal ombudsman" in Sweden (good practice example, Article 12, Page 137):

In Sweden an ombudsman system for the implementation of supported decision-making is in use, which leaves disabled persons far greater decision-making options than the well-known systems of guardianship or legal incapacitation.

Compulsory support of persons with mental and psychological disabilities in judicial proceedings

in Israel (good practice example, Article 13, Page 130): In Israel since 2006 it has been established in law that persons with mental and psychological disabilities must receive special procedural support for interrogations as well as court proceedings.

Financial support for personal assistance (Question 19, Article 19, Page 58) in Denmark and Sweden: In Denmark and Sweden persons with disabilities are legally entitled to receive full financial support for necessary personal assistance.

Control mechanisms for a stay in institutions (Question 20, Article 19) in Denmark, Sweden and Slovenia: In Denmark, Sweden and Slovenia persons can decide of their own volition where and how they want to live, not only by law, but according to NGOs, in practice as well.

Official statistics on university graduates with disabilities in United Kingdom (Question 29, Article 24, Page 60): There is outstanding data on students and the completed degrees in United Kingdom based on a student self-assessment.

Equal treatment in the payment of rehabilitation costs in Denmark, Ireland, Portugal, Sweden and United Kingdom (Question 31, Articles 25 und 26, Page 80): In Denmark, Ireland, Portugal, Sweden and United Kingdom the manner in which an accident occurs is not relevant for the coverage of rehabilitation costs. Victims of war are not given preferential treatment, nor are accidents while exercising a profession.

Right to personal employment assistance in the workplace (Question 34, Article 27, Page 86) in Denmark, Portugal and Sweden: In Denmark, Portugal and Sweden persons with disabilities have a right to government-funded employment assistance.

Additional options for completion of apprenticeships in Switzerland (Question 37, Article 27, Page 92): In a report recently published by the OECD, the Swiss system of vocational training for young persons with disabilities is described as very effective. Evaluations were expected no later than in 2010.

Employment model for persons with autism in the primary labour market in Denmark (good practice example, Article 27, Page 132): The company Specialisterne established by Dane Thorkil Sonne is an outsourcing centre which tests software for software firms and employs some 35 persons with autism. An international expansion is planned.

Accessibility of exhibits in public museums (Question 39, Article 30, Page 96) in Portugal, Sweden, Switzerland and United Kingdom: In Portugal, Sweden, Switzerland and United Kingdom all public museums are legally obliged to ensure universal accessibility so that their exhibits and/or content are not only accessible to persons with walking disabilities, but also to blind persons (including their guide dogs) and persons with a hearing impairment.

Meaningful statistics on the living conditions of persons with disabilities in United Kingdom (Question 41, Article 31, Page 100): In United Kingdom there are detailed and up-to-date statistics on the living conditions of persons with disabilities surveyed by the "Care Quality Commission".

Meaningful statistics on education and employment in United Kingdom, Ireland and the USA (New York State). (Question 42, Article 31, Page 102): In Ireland, United Kingdom and in the United States/state of New York State these data are gathered and publicised on a regular basis.

Development of "focal points" for the UN Convention's implementation in Portugal, Sweden and United Kingdom (Question 44, Article 33, Page 106): In Portugal, Sweden and United Kingdom feasible "focal points" have already been established, in whose work respondents say civil society is sufficiently integrated.

Availability of UN Convention in audio and plain-language versions in Germany and Hungary (Question 3, Articles 2, Page 30): Germany as well as Hungary, where the complete range of versions of the UN Convention is available via websites (or by ordering a DVD), are pioneers in publicity in this regard.

How Austria can improve its score most efficiently

Internationally, Austria cannot be viewed as exemplary regarding the implementation of human rights for persons with disabilities. This finding is confirmed by the overall assessment as well as by the specific lack of outstanding activities.

In order to improve the traffic light ratings in the Essl Social Index, the following summarised points should be in the focus of work:

- Statistics-taking must be substantially improved, which would also have a positive impact on awareness-raising, political decision-making and media representation in the interest of persons with disabilities.
- The unequal treatment and consequent injustice resulting from federalism, which simultaneously impede or even prevent the spread of good practice examples, must be dealt with.
- Efforts must be made in the area of education and vocational training, where after primary school there is a lack of inclusive and concentrated support for persons with disabilities.
- In concrete terms, there must be an intensification of awareness-raising and expansion particularly of the level of knowledge of persons and professional groups such as architects, engineers and building technicians, judges, public servants and employees in transport companies, who in daily practice could improve the legal status and everyday lives of persons with disabilities the fastest and for the long term.
- Legal certainty must be established and the benefits already granted legally safeguarded, if possible at the Austrian level, thus reducing the discretionary latitude of persons or authorities as well as “decoupling it from the availability of financial means”, as is done, for example, with family support.
- The enforceability of legally established rights must be improved, in the school system and in barrier-free construction, for example, where there are striking discrepancies between law and practice.

Outlook for the coming years

The first Essl Social Index survey has encountered enormous interest at home and abroad. The meaning and effectiveness of this type of survey are recognised on all sides and encourage considerable optimism for future development and expansion.

The Essl Social Index is a freely accessible, independent source of data and facts provided to persons with disabilities, to their interest representatives, to administrative authorities, the media and politicians. Abroad, foundations are approached to be partners which produce comprehensive publications based on it for their own needs.

More extensive partnerships are to be developed in Austria and on an international basis.

Internationally there are associations of foundations and NGOs that have indicated interest and can have a coordinating impact. Foundations and NGOs should conduct the survey in their respective country and area of interest, which for every participating organisation would generally mean being able to produce a comparative international study with the survey efforts for their own country.

In 2012 surveys for the Essl Social Index for Disability Governance will be conducted in at least 30 countries.

Acknowledgements

The first ESSL Social Index would not have materialised without the multiple support efforts from an entire range of people and organisations. Persons with disabilities and their communities of interest provided us with their time and made the effort to come to various meetings and discussions. With their help, over a period of months social indicators were constructed, improved, and many also rejected or put on hold. They not only helped us through hundreds of tips from practical experience, but also through their national and international contacts and improvement of the balance of issues.

Particularly important for launching the project were the men and women in decision-making positions who recognised the potential in the initial exploratory talks and helped get the project on track and provide it with direction. Not only did EU Commissioners Vladimír Špidla and Benita Ferrero-Waldner confirm the urgent need for this type of information; they provided seminal recommendations concerning methods and strategy. Rudolf Humer and Dr. Gerhard Eckert of the ESSL Foundation's board of directors stood behind the project from the very beginning.

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In the Central and Eastern European countries the bauMax employees in charge of the company's internal "Humanity Programme" and consequently for the disabled employees were the important interfaces to the local NGOs. For this we are thankful to them as well. The bulk of the research and compilation of results lay with Caroline Wallner-Mikl of the ESSL Foundation. The international spokesperson of the ESSL Foundation was Tom Butcher, representative of the ESSL Foundation in New York, who kindly helped with both the survey, and formulation of the report.

About the First Essl Social Index for Disability Governance

The Essl Foundation is developing a system of social indices, the Essl Social Indices, in order to be able to advocate for the concerns of socially disadvantaged persons on a broad basis.

The scientifically rigorous, yet clear, appraisal of inequalities and injustices is proven to be an efficient method for garnering the interest of the media, thus also policymakers, in otherwise elusive issues and for achieving improvements in this manner. The Pisa Study, the Millennium Development Goals, the Global Corruption Index and the Bertelsmann Transformation Indices (BTI) are good examples of this.

The perceived living conditions and the legal situation of disadvantaged persons and groups of persons are measurable and internationally comparable, and with the help of developed social indicators, the social indices and comparative representations can be condensed. International comparison renders disparities in the countries and Austrian provinces' treatment of the socially weak discernible and simultaneously identifies good practice examples for solutions.

Good practice examples are afforded considerable attention in the process. The aim of the Essl Social Indices is to help achieve concrete improvements in the living conditions and legal situation and not only to exercise critique. The simultaneous identification of weaknesses along with exemplary solutions – and that at operative and concrete levels of all activities and not only as general political demands for equality, etc. – is the aim of the Essl Social Index.

This way, in the course of several years, one target group of socially disadvantaged persons after another should be provided support by introducing an new sub-index into the Essl Social Index family.

In 2010 the Essl Social Index for Disability Governance (ESI-DG), which surveys the legal situation and living conditions of persons with disabilities, will kick things off. The method for compiling every Essl

Social Index for Disability Governance (ESI) is based on the compilation and survey of social indicators. Using key figures, the social indicators condense the overall picture in one country (or province) and, in doing, so render it transparent and comparable. This is reinforced by a simple optical traffic light colour code:

GREEN: in the respective country/province the problem addressed is satisfactorily solved;

ORANGE: in the respective country/province the problem addressed is partially/sometimes solved;

RED: in the respective country/province the problem addressed is unsatisfactorily solved.

Once developed, Essl Social Indices are calculated annually or every two years so that there are options for temporal comparison in the long term. The Essl Foundation provides them to the interested public free of charge and, in doing so, cooperates nationally and internationally with NGOs, foundations and other suitable and interested partners.

Essl Social Index for Disability Governance (ESI-DG)

Within a short time the UN Convention on the Rights of Persons with Disabilities has become the most significant and most recognised body of legislation on the implementation of the rights of persons with disabilities. For this reason, the social indicators of the Essl Social Index for Disability Governance (ESI-DG) take the transposition of this UN Convention into the legal system and the lived experience of persons with disabilities as the standard.

Countries that have ratified the UN Convention must also incorporate it into their legal system. Thus the articles of the UN Convention are not only demands of the parties concerned and those who represent their interests for targets concerning equal treatment, options for accessibility and a self-determined life, but concrete and measurable targets to be achieved by the ratifying countries.

Thus the ESSL Social Index for Disability Governance (ESI-DG) is specifically aimed at rendering international (or in federalist government systems also internal) differences transparent and tangible. Indirectly, processes for improvement and transformation are to be initiated and accelerated as well, which is why good practice examples have been given particular attention and developed: the aim is not to exercise critique, but to provide the most concrete criteria possible for improvements.

The ESSL Social Index for Disability Governance (ESI-DG) does not intend to replace the supervisory, control and reporting mechanisms that exist at various levels, but to provide them with additional instruments, arguments and facts and to reinforce them. Specifically, the monitoring process stipulated as part of the UN Convention is to be complemented and reinforced with detailed information provided by the ESI indicators.

Derivation of social indicators from the articles of the UN Convention

A series of articles from the UN Convention can serve as a standard through the aforementioned type of questioning and information-gathering. Specifically, these are Articles 8 to 33, based on the fulfilment and implementation of which specific questions may be asked. Some articles require very concrete measures from the countries and provinces which have ratified the UN Convention (such as the appointment of monitoring committees in accordance with certain rules).

For most of the articles this is not possible, however. Article 9 on universal accessibility, for instance, demands a series of measures concerning buildings, means of transportation as well as information systems. In this regard, specific facts had to be selected

based on the aspects of representativeness, objectivity and surveyability.

Requirements of the social indicators for the ESI-DG:

- Establishment of measurable, representative and comparable facts
- Inclusion of as many of the relevant articles of the UN Convention as possible
- Surveyability with reasonable effort and costs by international experts and NGO networks for want of available statistics and figures
- Selectivity so that to some degree there are solutions in at least one of the countries considered
- Objective surveyability, independent of the respondent and questioner, with little latitude for interpretation
- Simple, understandable language for the questions and clearly specified options for response
- Ability to condense responses into figures or yes-or-no questions
- Long-term representativeness (for instance in which a country improves only this one single indicator in subsequent years, but not the overall situation)
- Agreement among the parties concerned, scientists and experts on the desirability of achieving the target (attainable simply by accepting the target of the UN Convention)
- Representative consideration of various groups among persons with disabilities
- Avoidance of questions in which the definition of disability plays a role, as this definition varies extremely in different contexts
- Illustration of concrete problems or laws for which political improvement can occur as directly as possible
- Possibility for supplementary descriptions of model solutions

Cooperation with a network of experts, interest representatives, NGOs and the parties concerned

The Essl Social Index is nationally and internationally surveyed together and in coordination with the broadest possible basis of experts, scientists, the parties concerned, NGOs and interest representatives.

The survey is conducted using questionnaires combined with an online survey by:

- NGOs with international connections
- international networks of scientists and experts

Only a small segment of indicators can be surveyed directly by the Essl Foundation using data which is statistically available or an online survey.

The first survey for the Essl Social Index for Disability Governance (ESL-DG)

The first publication of the Essl Social Index was preceded by a two-year period of preparation. The decision of the Essl Foundation in November 2008 was followed by a phase of several months of interviews with experts, scientists, the parties concerned and NGOs.

- An initial workshop of several hours in which 14 NGOs and organisations representing the parties concerned participated took place on 28 April 2009 at the Essl Museum. Additional workshops and meetings took place on 6 July 2009 on the premises of the ÖAR (Austrian Association for Rehabilitation) and on 12 October 2009 on the premises of the Relief Organisation for Austria's Blind and Visually Impaired.
- In these workshops the social indicators and questions were addressed first and in a process of several months the catalogue of social indicators steadily improved.

In September 2009 the first trial survey took place in which several NGOs and their contact networks at home and abroad filled out the first beta version of the questionnaire and reported their experiences.

In January 2010 cooperation began with the KfW Endowed Chair in Entrepreneurial Finance at the Technical University of Munich (TUM), which scientifically

refined the survey methods, continued with trial surveys in Germany and Switzerland, and starting in February 2010 developed questionnaire modules as a pdf document and online questionnaire tool, both in German and English.

The official survey lasted from April until June 2010 with individual questionnaires and questions submitted through the end of August, parallel to a phase of several weeks in which the answers were compared, reviewed for plausibility and in some cases, for which follow-up research was conducted.

The questionnaires were completed by

- a total of 30 NGOs at home and abroad,
- along with experts, authorities, infrastructure companies, specifically in Austria and Germany, surveyed directly by the Essl Foundation and by the KfW Endowed Chair in Entrepreneurial Finance, TUM,
- foundations, with the European Foundation Center (EFC) playing a coordinating role, as well as IDRM (International Disability Rights Monitor) in the USA, through which nearly all Western European and American results were researched.
- In the Central and Eastern European countries those working for the bauMax Group's "Humanity Programme" were helpful in coordinating contacts with the local NGOs.
- The follow-up research was conducted exclusively by the Essl Foundation.

From June to September 2010 the results were evaluated and summarised; the present report was written in the months of September and October 2010.

- In October and November 2010 this volume of studies was written and completed in German and English.
- At the end of November the volume of studies was introduced for the first time to a qualified public, further procedures were discussed and the results announced on the Essl Foundation's website.

The UN Convention on the Rights of Persons with Disabilities

The United Nations Convention on the Rights of Persons with Disabilities is an international agreement that specifies the human rights that already exist for the life situation of disabled persons. For this reason fundamental human rights are also found in the text of the agreement, such as the right to life and the right to liberty of movement.

The implementation of the Convention by the States Parties is supported by a United Nations body, the UN Committee on the Rights of Persons with Disabilities, the headquarters of which is in Geneva.

Like all human rights Conventions, the Convention on persons with disabilities is also directed primarily toward the State as guarantor of the right, which ratifies the UN Convention and is thus legally obliged to implement it.

Origin and entry into force

The Convention and Optional Protocol were adopted on 13 December 2006 at the headquarters of the United Nations in New York. The Convention as well as the Optional Protocol entered into force on 3 May 2008 after 20 states had ratified the Convention. On 23 July 2009 140 states had already signed the Convention and 62 states had ratified it. 83 had signed the Optional Protocol and 40 had ratified it. Of the EU member states, all 27 had signed the Convention and 17 the Optional Protocol in mid-August 2010.

Austria ratified the UN Convention, including the Optional Protocol, on 26 August 2008.

Aims of the UN Convention

The Convention seeks to promote the equality of opportunity of persons with disabilities and to prohibit their discrimination in society. The critical potential of human rights versus involuntary exclusion from communities or society is to be developed more strongly than before.

The UN Convention does not require "integration", rather "social inclusion". This means to participate in

society to the full extent while at the same time preserving autonomy and independence. Under the General Principles (Art. 3) it says: "Full and effective participation and inclusion in society". "Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity".

By aiming to liberate persons with disabilities from having to view themselves as a "deficit", the Convention simultaneously aims to liberate society from an incorrectly understood fixation on health by which all those who fail to satisfy the imperatives of fitness, youth and continuous performance are pushed to the margins.

Inclusive definition of disabled persons

The Convention is based on an understanding of disability which explicitly affirms every form of physical, mental or sensory impairment as a normal aspect of human life and human society and also appreciates them as a potential source of cultural enrichment ("diversity approach"). Persons with a disability should be able to live with all others and to feel a sense of belonging.

The most important points of the UN Convention, which, on the other hand, represent the greatest need for action for many states, include:

Equal recognition before the law (in accordance with Art. 12 of the Convention) – According to the text of the Convention, the States Parties of the Convention shall take appropriate measures to provide persons with disabilities with access to the support they may require in exercising their legal capacity. Thus persons with disabilities or mental illness are to be provided with legal support – not a representative – rather than fundamentally deprived of their legal capacity.

Access to justice (in accordance with Art. 13 of the Convention) – As a general rule for disabled persons the principle of barrier-free access applies: blind

or visually impaired persons shall have legally relevant texts read to them or made accessible in another manner. Hearing or speech impaired persons shall be provided with the required assistance at hearings. Cognitively impaired persons have a right to have legal documents explained to them in a language they understand.

Liberty and security of person (in accordance with Art. 14 of the Convention) – The existence of a disability shall in no case justify a deprivation of liberty.

Living independently and being included in the community (in accordance with Art. 19 of the Convention) – The State shall take effective and appropriate measures to facilitate the full inclusion and participation of disabled persons in the community. These include the freedom to choose their place of residence and the freedom to decide where and with whom they want to live. Obliging persons with disabilities to live in particular living arrangements is also contrary to the law. Access to community support services at home and in institutions, including personal assistance necessary to support living and inclusion in the community shall also be guaranteed. Isolation or segregation from the community are to be prevented in this manner.

Education (in accordance with Art. 24 of the Convention) – No one may be excluded from the general system of education. In accordance with the UN Convention on the Rights for Disabled Persons, students with physical or mental disabilities shall be taught in regular schools and institutions of tertiary education.

Health (in accordance with Art. 25 of the Convention) – The right to the highest attainable standard of health.

Habilitation und Rehabilitation (in accordance with Art. 26 of the Convention) – Not only professional assistants, but also other persons with disabilities (peer support) shall support persons with disabilities in order to ensure maximum independence, full physical, mental, social and vocational abilities.

Work and employment (in accordance with Art. 27 of the Convention) – Right to gain a living by work.

Adequate standard of living and social protection (in accordance with Art. 28 of the Convention)

Participation in political and public life (in accordance with Art. 29 of the Convention) – The right of disabled persons to vote shall not be undermined. States Parties shall ensure that voting procedures, facilities and materials are appropriate, barrier-free accessible and easy to understand and use, they shall guarantee the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, and they shall allow assistance in voting by a person of their own choice. There is a certain conflict between this and the obligation for a secret ballot and personal right to vote and requires well thought out solutions.

Participation in cultural life, recreation, leisure and sport (in accordance with Art. 30 of the Convention)

Statistics and data collection (in accordance with Art. 31 of the Convention) – States Parties shall undertake to collect appropriate information, including statistical and research data, which enables them to formulate and implement policies to give effect to the present Convention.

INTERNATIONAL COMPARISON OF 40 INDICATORS

RATIFICATION OF THE UN CONVENTION

1. Has the state ratified the UN Convention the Rights of Persons with Disabilities?

RELATES TO UN UN CONVENTION – ARTICLE NO.

This (entry) question concerns only whether a state has ratified the UN Convention and does not refer to specific articles.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The Convention and the Optional Protocol were passed on 13 December 2006 at the seat of the United Nations in New York. The Convention as well as the Optional Protocol entered into force on 3 May 2008 after 20 states had ratified the Convention. As of 20 July 2010, 146 states had signed the Convention and 88 states had ratified it. The questionnaire asks specifically about ratification (and not about signing since only the former has binding effect and some time may pass between the two events, depending on the country).

The question refers only to ratification of the UN Convention and not ratification of the Optional Protocol, which also contains certain monitoring measures (ratification of the Optional Protocol is indicated with a "Z").

Question 2 identifies whether the UN Convention was signed only with restrictions.

SUMMARY OF RESULTS




Austria has ratified the Convention, just like 11 of the other 15 countries. The USA and Switzerland are conspicuous in their absence, although the USA has at least already signed the UN Convention (as have Ireland and Romania).

FURTHER INFORMATION

<http://www.un.org/disabilities/default.asp?navid=19&pid=257>

<http://www.un.org/disabilities/default.asp?navid=19&pid=258>

1. RATIFICATION OF THE UN CONVENTION

	Austria (AT)	Z
	Canada (CDN)	●
	Switzerland (CH)	●
	Germany (DE)	Z
	Denmark (DK)	●
	Hungary (HU)	Z
	Ireland (IRL)	●
	Portugal (POR)	Z
	Romania (ROM)	●
	Slovenia (SLO)	Z
	Spain (SPA)	Z
	Sweden (SWE)	Z
	Turkey (TR)	●
	United Kingdom (UK)	Z
	USA	●

- The country has ratified the UN Convention
The "Z" indicates that the state has also signed the Optional Protocol without restrictions.
- State has signed the Convention, but not yet ratified it.
- State has not signed the Convention.

REMARKS

ROM: Die Regierung hat sich verpflichtet, sie in diesem Jahr (2010) zu ratifizieren.

RATIFICATION OF THE CONVENTION WITHOUT RESERVATIONS

2. Has the Convention been ratified without any reservations, declarations or objections?

RELATES TO UN UN UN CONVENTION – ARTICLE NO.

This (entry) question concerns only whether a state has ratified the UN Convention, with or without reservations etc, and does not refer to specific articles.

BRIEF EXPLANATION OF THE ARTICLE

States that have signed the UN Convention also have the option of applying limitations by selectively choosing not to ratify specific articles, thereby excluding them. This is viewed as a limitation of the rights of persons with disabilities as are granted in other countries.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE






















Article 12, which deals with the preference for supported decision making as opposed to “substituted decision-making”, was the subject of particular controversy during the drafting of the UN Convention since some states felt it “went too far”. Since this involves a central issue in the implementation of human rights, a restriction regarding “Article 12” earns a “red” light, while other restrictions result only in “orange” lights.

SUMMARY OF RESULTS

United Kingdom and Canada have limited the application of Article 12: Canada clearly states a desire not to eliminate all existing “substituted decision making” systems and also refers to the exclusion of independent review systems. United Kingdom merely states the reservation that it currently does not employ an independent review system as defined by the UN Convention and has also established further restrictions as part of its ratification.

So far, Ireland, the USA, Romania and Switzerland have not ratified the UN Convention and are also given a “red” light for this reason.

2. RATIFICATION OF THE CONVENTION WITHOUT RESERVATIONS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- State, on formal confirmation, accession, ratification of the Convention made no reservation, declaration or objection.
- State, on formal confirmation, accession, ratification of the Convention made a reservation, declaration or objection, but did not refer to Article 12.
- State, on formal confirmation, accession, ratification of the Convention made a reservation, declaration or objection which included reference to Article 12. (Or: State has not signed the Convention.)

REMARKS

CDN: Ratification included an interpretive declaration and reservation on Article 12, concerning substitute decision-making and review by an independent authority, and an interpretive declaration on Article 33 (2) regarding the situation with the federal provinces.

UK: Ratification included a number of reservations, to Articles 27, 24 and 12 and a declaration concerning Article 24. The reservation on Article 12 concerns social security claims and payments on behalf of an individual "who is for the time being unable to act."

TRANSLATIONS OF THE CONVENTION

3. Is an audio version, a sign language translation and a plain-language version of the Convention universally available on an official state website, in all official languages of the country?

RELATES TO UN CONVENTION – ARTICLE NO.

The obligation to publish the UN Convention in an accessible format is stated in the UN Convention itself (Articles 2 and 49).

BRIEF EXPLANATION OF THE ARTICLE

Article 2 states that communication (of the UN Convention) must also take place via sign language and other “non-spoken languages”: display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology, spoken and signed languages and other forms of non-spoken languages; furthermore, Article 49 explicitly states that the UN Convention must be published in accessible formats.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE































Plain language has to include symbols and pictures for easier understanding.

The question was formulated such that “green” indicates the availability of the UN Convention in all specified forms as an official publication and translation by the government (not only in unauthorised versions).

SUMMARY OF RESULTS

Germany and Hungary, which have websites offering the full range of versions (or for order on DVD), are leaders in this regard. So far, few other countries have completely fulfilled this requirement of the UN Convention even though it is relatively simple to implement. Austria has not so far published an official translation of the UN Convention; all available German versions (which differ in some areas from the content of the original English version) are non-binding. Although Switzerland has not signed the Convention, it is available in German and in a “plain-language” version on the website of the “Federal Bureau for the Equality of People with Disabilities”. Slovenia has translated the Convention. The plain-language version can be found on the website of the ministry, and the audio text can also be requested from the ministry.

3. TRANSLATIONS OF THE CONVENTION

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- An audio version, a sign language translation and a plain-language version of the Convention are universally accessible on an official state website, in all official languages of the country.
- Only one or two of the three are available on an official website, or not in all official languages.
- None is available on an official state website. (Or: State has not signed the Convention.)

REMARKS

AT: Mag. Schulze: Österreich hat keine Übersetzung der UN-Konvention (das wird zwischen Deutschland und Österreich ausverhandelt) in deutscher Sprache. Weder in einfacher Sprache, Gebärdensprache noch als Audio-Text. Wenn veröffentlicht auf der Website von Parlament oder Bundesministerium für Soziales. UN-Website ist aktuell.

CH: Die UN-Konvention steht in allen drei Amtssprachen der Schweiz auf der offiziellen Website des Eidgenössischen Büros für die Gleichstellung von Menschen mit Behinderungen zur Verfügung. Auf Deutsch steht sie zudem auch in einfacher Sprache zur Verfügung. Es besteht zudem ein Link zur ENABLE Website der UN. Hingegen gibt es keine Versionen als Audio-Text oder in Gebärdensprache.

DE: Alle Versionen sind auf der Seite des Bundesministeriums für Arbeit und Soziales vorhanden (als bestellbare DVD).

DK: About to be produced.

HU: <http://www.szmm.gov.hu/main.php?folderID=16485>

IRL: The Convention can be requested in accessible format and easy-to-read/plain-language versions are available.

SLO: Essl Foundation: Eine Version auf einer der staatlichen Webseiten gibt es nicht. Es gibt die Übersetzung allerdings auf der UN-Webseite. Laut zuständigem Ministerium erhält man einen Audio-Text, wenn man beim Ministerium anfragt, und die Leichter-Lesen-Version ist unter einem Link zum Download bereit.

UK: There is an easy-to-read version of the Convention on the Government Office for Disability Issues website.

USA/New York State: One can find many non-state websites with plain-language versions of the CRPD. One such example can be found at the Harvard Law School Project on Disability's website.

EDUCATION OF ARCHITECTS

5. Are architects obliged to receive training covering accessibility to those with disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.

8 Awareness-Raising

BRIEF EXPLANATION OF THE ARTICLE

Article 8 of the UN Convention defines the goals of raising awareness as well as fostering greater recognition of persons with disabilities throughout society.

The promotion of training programmes regarding persons with disabilities and the rights of persons with disabilities are explicitly mentioned as measures to achieve these goals in addition to many other possibilities (media campaigns, educating schoolchildren, etc.).


























BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

With regard to designing buildings and public spaces with barrier-free access, it is architects who are primarily responsible for taking into account comprehensive accessibility and freedom from barriers starting from planning. This can only be ensured if the architects are familiar with the corresponding laws, standards, technical possibilities and successful implementations (good practice examples). For this reason, the question inquires directly as to whether this knowledge is an integrated component of the education of architects.

SUMMARY OF RESULTS

Roughly half of the countries indicate that the topics of barrier-free access and the rights of people with disabilities are not fixed components of the education of architects. Only for Denmark has it been confirmed that the education of architects includes mandatory courses on this topic. The remaining countries offer at best training courses to concerned architects on a purely voluntary basis.

5. EDUCATION OF ARCHITECTS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- As part of both their architectural education and professional training, architects are obliged to take courses covering design for those with disabilities, for example, barrier free buildings and accessibility to those with disabilities.
- Courses covering design for those with disabilities, for example, barrier-free buildings, accessibility to those with disabilities, are optional, but not obligatory. Or are shallow. Or are only compulsory for some architects.
- No courses covering design for those with disabilities, for example, barrier-free buildings, accessibility to those persons with disabilities, are either obligatory or even optional.

REMARKS

AT: Mag. Schmalzer (Bundeskammer der Architekten und Ingenieurkonsulenten): Die Universitäten können die Studienpläne für die Architekturstudien autonom festlegen. Das Ziviltechnikergesetz verlangt keine Ausbildung in Barrierefreiheit. Unis haben keine Pflichtfächer in Ö.

CH: (1) Fr. Maeder vom Bund Schweizer Architekten: Kurse, die sich mit dem Design für Menschen mit Behinderung, z. B. barrierefreien Gebäuden und barrierefreier Zugänglichkeit, beschäftigen, sind weder verpflichtend noch optional. (2) Es gibt keine nationalen Verpflichtungen der Architekturschulen zum Thema hindernisfreies Bauen, geschweige denn zur rechtlichen Situation. Dies gibt es aber auch nicht zu anderen rechtlichen Bereichen wie Baurecht, Vertragsrecht etc. Die Schulen sind ziemlich frei in der Gestaltung und Priorisierung der Lernprogramme. In den ca. 15 Architekturschulen in der Schweiz ist es sehr unterschiedlich, ob und wie hindernisfreies Bauen im Unterricht vorkommt. In ein bisschen mehr als der Hälfte der Schulen ist dies jeweils der Fall.

DE: Dipl.-Ing. Oliver Heiss der Bay. Architektenkammer: Die Vermittlung von speziellen Bedürfnissen von Menschen mit Behinderung wird an deutschen Hochschulen zwar ernst genommen, dennoch ist es momentan (und wird auch in Zukunft) kein fixer Bestandteil des Lehrplans. Kurse werden jedoch an allen Universitäten angeboten.

IRL: There is no statutory requirement obliging architects to receive training covering accessibility to those with disabilities. The relevant third level institute determines course content.

TR: The Izmir Chamber of Architects publishes the Disabled Access Guide and Administration for Disabled People and has published some books regarding this issue. There are also some universities carrying out studies on this issue.

UK: Resources for students on inclusive design are available, e.g. from the Royal Institute of British Architects (RIBA) and the Centre for Excellence in Teaching and Learning through Design (CETLD), but these are not compulsory.

USA/NY: Training is available, but not compulsory.

ACCESSIBILITY TO NEW BUILDINGS

6. Are all newly constructed buildings to which there is public access required by law to be accessible?

RELATES TO UN CONVENTION – ARTICLE NO.

9 Accessibility

BRIEF EXPLANATION OF THE ARTICLE

To enable persons with disabilities to live independently and participate fully in all aspects of life, they must be ensured “access, on an equal basis with others, to the physical environment ... and to other facilities and services open or provided to the public, both in urban and rural areas.”

The Convention further calls for appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The survey included several questions on the topic of universal accessibility and the absence of barriers. This question addresses the relatively simple and inexpensive measure of requiring (only) newly constructed buildings to features universal accessibility. However, it intentionally includes not only “public buildings” (ministries, courts, etc.) but also buildings “to which there is public access”, which also covers supermarkets, cinemas, hotels and restaurants, for example. It also asks directly about comprehensive accessibility to persons with all types of disabilities since the vision-impaired tend to be given less consideration than persons with impaired mobility.

An additional definition of universal accessibility and the absence of barriers was also given by stating that “accessibility should be based on widely known and respected sets of criteria and meet the interests of all persons with disabilities.”































SUMMARY OF RESULTS

In roughly half the surveyed countries, universal accessibility and the absence of barriers are required by law and also implemented according to the surveyed NGOs.

Implementations exist in the other countries but they exhibit deficiencies. More consideration tends to be given to persons with impaired mobility over the vision-impaired, for example, and it is further noted that no monitoring takes place after completion of the construction.

Minimum standards exist in all 15 surveyed countries.

6. ACCESSIBILITY TO NEW BUILDINGS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Legislation is in place and covers both all newly constructed buildings to which there is public access and covers all disabilities.
- There is legislation only for certain newly constructed buildings. Or accessible only to persons with certain disabilities, etc.
- There is no such legislation.

REMARKS

AT: Behindertengleichstellungsgesetz, ABER: Die Behörden kontrollieren nach der Baubewilligung die barrierefreie Ausführung nicht. Sie werden erst aktiv, wenn ein Betroffener auf Diskriminierung klagt. Das geschieht viel zu selten, da es neben der Beseitigung der Barriere nur um Schadenersatzforderungen geht. In anderen Ländern der EU (etwa Spanien) liegt die Verantwortung der Kontrolle bei den Behörden. Barrierefreiheit ist auch nur bei bewilligungspflichtigen Bauvorhaben vorgeschrieben. Es gibt keine Verpflichtung zu Um- oder Nachrüstungen.

CDN: As a federated country there is more than one government level responsible for physical accessibility. Laws vary across the country, but there are in place basic accessibility requirements.

CH: (1) Bund Schweizer Architekten: Die Gesetzgebung schließt alle Arten von Behinderungen ein und deckt alle Neubauten mit öffentlicher Zugänglichkeit ab. (2) Das Behindertengleichstellungsgesetz (BehiG SR 151.3) ist am 1. Januar 2004 in Kraft getreten. Es findet sowohl auf Neubauten, als auch auf bewilligungspflichtige Renovationen Anwendung, soweit es sich entweder um öffentlich zugängliche Bauten (also auch Kinos), um Wohnbauten mit mehr als 8 Wohneinheiten oder um Bauten mit mehr als 50 Arbeitsplätzen handelt. Bei öffentlich zugänglichen Bauten muss sowohl der Zugang als auch die Benutzbarkeit gewährleistet sein. Die einzige Grenze ist der Grundsatz der Verhältnismäßigkeit (Art. 11 und 12 BehiG). Alle Behinderungsarten sind umfasst.

DE: Dipl.-Ing. Oliver Heiss der Bay. Architektenkammer: Neu errichtete Gebäude müssen barrierefrei gestaltet sein (allerdings nur für Rollstuhlfahrer), neue DIN-Norm ist in finaler Klärung und soll 11/2010 in Kraft treten. Diese Norm schließt dann auch Sehbehinderungen mit ein.

HU: Öffentliche Gebäude müssen nach den ungarischen Gesetzen barrierefrei sein, sind es aber leider trotzdem nicht immer.

IRL: Under the country's current Disability Act, its public buildings are, as far as practicable, to be made accessible to people with disabilities not later than 2015 – however this is for public buildings and does not cover private buildings.

UK: Part M Schedule 1 of Building Regulations 2000 – as amended by the Building (Amendments) Regulations 2003.

USA/New York State: At the federal level, the Americans with Disabilities Act prohibits discrimination against people with disabilities in the full and equal enjoyment of public accommodations.

LEGAL TIME FRAME FOR ACCESSIBILITY

8. Is there a legal time frame for all existing buildings to which there is public access to be made accessible to persons with disabilities? If 'yes', by when?

RELATES TO UN CONVENTION – ARTICLE NO.

9 Accessibility

BRIEF EXPLANATION OF THE ARTICLE

See Question 6.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

This question asks whether deadlines exist by which all existing buildings with public access must be made accessible. This question was selected as an extension to Question 6 because without a deadline for existing buildings, it would take decades for general accessibility to be achieved.



SUMMARY OF RESULTS:

In four countries a deadline is stated which expires no later than in 2015. This obligation has been incumbent upon Austria as well, but has been restricted in that the creation of barrier-free accessibility is to be "reasonable". In this regard the majority of NGOs still voted for "green" in the expectation that the lack of reasonability would remain limited to a few cases such as basement restaurant/pubs, listed buildings or "first-floor hair salons". Shortly before this pilot study went to press, there was a bill presented which specified an extension of the deadline from the end of 2015 until the end of 2019. This is why the traffic light colour "green" was changed to "orange".

No relevant legislation exists in Germany, Denmark, Sweden, Switzerland, or the USA/New York State. In Hungary and Sweden there always were and are deadlines which, the NGOs say, have elapsed at least once already.

In response to the question, it turned out that several NGOs understood the question to refer to all "publicly accessible buildings", others, however, only to the "public buildings". The results were not entirely comparable

8. LEGAL TIME FRAME FOR ACCESSIBILITY

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All existing buildings to which there is public access are, without exception, required, by law, to be fully accessible to those with disabilities by 2015 - at the latest.
- Not all buildings are included. Or the law may only apply to the courts or public administration buildings. Or the law covers only certain disabilities.
- There is no such legislation.

REMARKS

AT: Fr. Grundner, ÖAR: Das Bundesbehindertengleichstellungsgesetz aus dem Jahr 2006 schreibt vor, dass mit Ende 2015 alle öffentlich zugänglichen Gebäude (Supermärkte, Museen, Kinos, Frisöre usw.) barrierefrei zugänglich sein müssen. Jedoch gilt darüber hinaus die Unzumutbarkeitsgrenze. Eine Judikatur dazu gibt es bis dato noch nicht.

CH: Eine solche Frist gibt es nur für Bauten und Anlagen des öffentlichen Verkehrs (Art. 22 BehiG). Diese müssen bis 2024 spätestens zugänglich sein (es sind Vorschläge gemacht worden, diese Frist zu verlängern). Vor Ablauf der Frist besteht aber die Möglichkeit, Benachteiligungen von Menschen mit Behinderung vor der zuständigen Behörde oder vor Gericht zu beanstanden (Art. 7 Abs. 2 sowie Art. 9 Abs.3 lit. b, c und d). Die Übergangsfrist wird im Rahmen der Verhältnismässigkeitsprüfung berücksichtigt (Art. 12 Abs. 2 BehiG).

DE: Oliver Heiss: Für Bestandsbauten wird es auch in Zukunft keine Regelung geben.

HU: In der Vergangenheit gab es mehrere Zeitrahmen und Fristen, die aber alle nicht eingehalten wurden. Derzeit gibt es keinen Zeitrahmen.

IRL: Under the Disability Act, buildings which are currently public, or become so, need to be "brought into compliance" i.e. be made accessible, "not later than 31 December 2015".

ROM: Nur einige öffentliche Gebäude sind betroffen und diese nur für Menschen in Rollstühlen.

SLO: Rules from 1999 and amendments to the regulations in 2003 and 2009.

SWE: Plans were for accessibility to be achieved by 2010, however the laws are not always complied with.

UK: According to the Disability Discrimination Act 1995, since 2004 anyone providing a service has had to address physical features which make it difficult for people with disabilities to use their services (including those who provide goods or facilities).

USA/NY: There is no legal time frame per se; however, the Americans with Disabilities Act requires that barriers preventing accessibility must be removed from existing facilities (those in existence prior to January 26, 1993) if "readily achievable".

ACCESSIBILITY OF PUBLIC BUSES

9. Are all public buses in the state's capital accessible to persons with disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.

9 Accessibility

BRIEF EXPLANATION OF THE ARTICLE

Article 9 of the UN Convention refers several times to the accessibility of public transportation, emphasising that minimum standards for all types of disabilities must be established. This includes not only the removal of physical barriers but also training for “stakeholders” (in this case, the employees of transportation companies and indirectly other passengers as well) plus the use of generally accessible signage and electronic information systems as required to ensure universal accessibility to persons with mental disabilities or vision impairments.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The bus system in the capital of a country (or province) was selected as one of three indicators for measuring the accessibility of a transportation system. Buses are a critical means of public transportation in all large cities (in contrast to tram lines and metro systems, which do not exist everywhere). In the interests of clarity and focus, it must be accepted that the question is intentionally restricted to the (typically better) transportation situation in larger cities. Accessibility options for the vision-impaired and persons with mental disabilities were also specifically included in the question.































SUMMARY OF RESULTS

Most of the results fall into the “orange” category since there is hardly a single city that has implemented comprehensive accessibility, although awareness of the problem does generally exist. There are some activities in Vienna, but these exhibit serious gaps, such as no consistent training of the bus drivers. (For provincial capitals, see 113).

Berlin claims to operate buses that are comprehensively accessible (including audio announcements, displays for the hearing impaired, high-contrast interiors, etc.). The driving personal are familiarised with the needs of the passengers; however, this training is restricted to persons with impaired mobility. The Berlin Transport Authority (BVG) and local public transportation companies also offer training for persons with disabilities to allow them to independently utilise these means of transportation.

In Hungary, the drivers are trained but the buses are seldom designed as accessible. Exactly the opposite situation exists in the USA/New York State.

9. ACCESSIBILITY OF PUBLIC BUSES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All such public buses are accessible to all those with disabilities. In particular, drivers are trained and each bus can carry two (2) wheelchairs.
- Some buses cannot carry two (2) wheelchairs, or some buses are not accessible to all those with disabilities, or drivers are not trained.
- None of the state capital's buses are accessible to those with disabilities.

REMARKS

AT: (1) Derzeit müssen bei allen Busbetreibern neuangeschaffte Busse barrierefrei zugänglich sein, spätestens ab 2015 dann alle Busse. (2) Nur einige Busse haben Platz für zwei (2) Rollstühle oder manche Busse sind für Menschen mit Behinderung nicht zugänglich bzw. der Fahrer ist nicht geschult.

CDN: There are jurisdictional issues with this question. Public transit, including in the State capital, is operated by the municipal government.

CH: Anruf bei Bernmobil am 26. 5.: Grundsätzlich sind alle Bus- und Tram-Linien (tagsüber) sog. „Niederflurfahrzeuge“ und mit Rampen nach Aufforderung selbstständig betret- und verlassbar. Teilweise kann es jedoch vorkommen, dass aufgrund eines Ausfalls ein anderes Fahrzeug zum Einsatz kommt. Mitarbeiter haben alle eine (kontinuierliche) Schulung im Umgang mit Menschen mit Behinderung; leider sind (noch) nicht alle Haltestellen behindertengerecht ausgestattet. Fortschritte bzgl. Barrierefreiheit werden jährlich im Erfolgsbericht vermerkt (www.brb-bern.ch/erfolgsbericht.pdf), Displays für Hörbehinderte sowie Tonansagen und spezielle Ticketautomaten für Sehbehinderte sind vorhanden.

Zürich: ZVV gab Auskunft, dass tagsüber alle SBahnen (bis auf einige wenige in den Morgen-/Abendstunden) barrierefrei und autonom zugänglich sind, Busse sind zum allergrößten Teil barrierefrei über eine Rampe zugänglich, die Tramlinien nur teilweise; bis 2015 sollen alle S-Bahnen, Busse und Tramlinien komplett mit barrierefrei zugänglichen Fahrzeugen ausgestattet sein.

DE: (1) nicht alle Niederflurbusse zu 100% barrierefrei ausgestattet (für Seh- und Hörbehinderte), mittlerweile jedoch schon mehr als 80%. (2) Bei der BVG wurde auf einen Abschlussbericht verwiesen, dem zu entnehmen ist, dass Fahrer im Umgang mit „mobilitätsbehinderten“ Fahrgästen geschult sind (Pg.14). Alle Busse der BVG sind barrierefrei nutzbar - sowohl für Fahrgäste mit Kinderwagen, Rollator oder Gepäck, als auch für Rollstuhlnutzer. Sehbehinderte Fahrgäste können sich aufgrund der kontrastreich gestalteten Innenräume und der Innenansagen im Fahrzeug gut orientieren. Hörbehinderten Fahrgästen stehen Displays im Fahrzeug zur Verfügung, auf denen die nächsten Haltestellen angezeigt werden.

HU: Busse mehrheitlich schlecht zugänglich für Menschen mit Behinderung, aber die Fahrer haben alle eine Ausbildung, wie sie mit behinderten Menschen umgehen/ihnen helfen müssen.

IRL: At the end of 2008, Dublin Bus had a fleet of 1,182 buses, 74% of which were low-floor wheelchair accessible, with 105 of the 200 routes classified as wheelchair accessible.

SPA: There are 706 public accessible buses in the capital (fefa)

UK: All buses can carry one wheelchair and wheelchair users are entitled to free travel on buses.

USA/New York State: New York City and Albany: Bus drivers are not trained in how to assist people with disabilities. They do not always announce the location of stops, making it difficult for the blind to know where to get off.

ACCESSIBILITY OF RAILWAY PLATFORMS

10. Are the platforms in the main railway stations of the state's capital accessible?

RELATES TO UN CONVENTION – ARTICLE NO.

9 Accessibility

BRIEF EXPLANATION OF THE ARTICLE

See Question 9.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

Alongside buses, trains are the most frequently used form of public transportation, which is why two of the three questions on the topic of accessible transportation refer to trains. The accessibility of train platforms was selected (among a number of possibilities for specific criteria) since it is a fundamental prerequisite for comprehensive accessibility and is relatively simple and inexpensive to achieve.

Since train stations often contain large open spaces, the question also inquires after accessibility for the vision-impaired.

SUMMARY OF RESULTS































Barrier-free access to the station platforms in Vienna is lacking primarily due to the construction situation (although the largest "active" train station of Wien-Meidling is accessible).

In Ireland and Slovenia, accessibility is considered to exist for persons with impaired mobility but not for the vision-impaired.

In supplemental remarks, the NGOs consider it a positive factor when there is a master plan with a deadline stating when which train stations should be fully accessible, such as in Austria (all train stations with more than 2000 passengers by 2015), Ireland or United Kingdom (by 2016; however, this is currently under revision by the new government in office since May 2010).

According to an NGO, the trains in Sweden are not in fact accessible via the platforms and therefore urgent action is required.

10. ACCESSIBILITY OF RAILWAY PLATFORMS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All the platforms of the capital's main railway stations are accessible, not only just to those in wheelchairs, but also to the blind.
- Only some platforms are accessible.
- Personal assistance is needed to reach every platform. I.e. there are steps, or no moving walkways, ramps or accessible elevators.

REMARKS

AT: ÖBB – Barrierefreies Reisen: Im Behindertengleichstellungsgesetz geregelt – Verkehr: Mit einer Übergangsfrist bis 2015 müssen alle Bahnhöfe, die mehr als 2.000 Personen täglich frequentieren, alle Landeshauptstädte und Bezirkshauptstädte barrierefrei umgebaut sein. Reisen wird einfacher, weil durch Umsteigeknoten und ÖBB-Busse regional nutzbarer. Es ist nicht finanzierbar, ganz barrierefrei zu werden (viele gehen mit Umbaumaßnahmen einher). ÖBB hat internes Regelwerk mit Behindertenorganisationen entwickelt. (2) Alle Bahnsteige des größten Bahnhofs der Hauptstadt sind nicht nur für Rollstuhlfahrer, sondern auch für Menschen mit Sehbehinderung zugänglich, d. h. es gibt keine Treppen, nur Rampen mit geringer Steigung, zugängliche Fahrstühle und Laufbänder. Außerdem gibt es Tafeln in Braille Schrift und deutlich hörbare Ansagen. (3) Begehungen von ExpertInnen der Hilfsgemeinschaft fanden am Bahnhof Wien-Meidling statt und die Barrierefreiheit der Einrichtungen ist gegeben.

CH: Sie haben zwar nicht die richtige Höhe, aber sie sind barrierefrei zugänglich (mit Rampe und mit Lift). Der Einstieg für Rollstuhlfahrende in die Züge ist gewährleistet, aber nur mit Personalhilfe (ganze Betriebszeit). Leitsysteme für Blinde gibt es.

DE: www.kobinet-nachrichten.de/cipp/kobinet/custom/pub/content/lang,1/oid,17579/ticket,g_a_s_t

IRL: Since 2000, all new railway stations have been designed and constructed in accordance with accessibility standards/good international practice. Work continues to make existing railways stations accessible.

http://www.irishrail.ie/your_journey/your_station.asp?letter=P

SLO: There are rules, platforms are not yet accessible for the blind and partially sighted.

SWE: The Swedish government must take urgent action so that the laws are complied with.

UK: The government has published an "Access for All" strategy to make selected stations accessible between 2006 - 2016. This is currently under review following a change in the UK government in May.

EARLY WARNING SYSTEM FOR NATIONAL EMERGENCIES

12. In national emergencies, is there an early warning system accessible to those with hearing disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.

11 Situations of risk and humanitarian emergencies

BRIEF EXPLANATION OF THE ARTICLE

The UN Convention contains a separate article on situations of risk and humanitarian emergencies and includes rights to food, water, the right to protection from infectious diseases and the right to education. Since minorities as well as persons with disabilities are frequently “forgotten” during many catastrophes, this has also been included in the UN Convention as a separate point.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

In the context of this survey, it is only possible to inquire about measures that are taken in the event of a national emergency. One particular requirement for all measures – in any country – is that the emergency alarm must also reach all persons with disabilities in good time (simultaneously). The siren alarms used in most countries are not sufficient to meet this criteria, particularly for the hearing-impaired.































SUMMARY OF RESULTS

Most countries have no special supplemental warning systems. In others, however, this issue is very well addressed, whereby the USA leads in this area with precise rules requiring, for instance, hurricane warnings to also be broadcast over all TV and radio channels.

The subtitling of TV programmes with emergency warnings is also implemented in other countries, although large differences exist in the speed and access options for public agencies in dealing with the channels (all channels of cable operators as in some parts of the USA or only state-owned radio).

In United Kingdom, the Civil Contingencies Act of 2004 recommends the use of various information channels. A special SMS/e-mail/fax service for the hearing-impaired exists in Slovenia, for which registration is required.

12. EARLY WARNING SYSTEM FOR NATIONAL EMERGENCIES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- The state's early warning system is accessible to those with hearing disabilities in all instances of national emergency in which it might be used.
- The early warning system may be accessible to those with hearing disabilities only in certain emergencies. Or only at certain times of day.
- The early warning system has not been designed to be accessible to those with hearing

REMARKS

AT: (1) Fr. Dr. Ita, BMI: Im Falle einer Alarmierung (bundesweite Sirenenauslösung) wird die Bevölkerung zeitgleich über Radio und Fernsehen über den Alarmierungsgrund und das erforderliche Verhalten informiert. Im Fernsehen erfolgt diese Information auch über Laufleisten in visueller Form. (2) In Richtlinien zur internationalen Katastrophenhilfe müssen Menschen mit Behinderungen in allen Bereichen und bereits in der Planung inkludiert werden. Bisher ist dies nicht geschehen. (3) Österreichischer Gehörlosenbund: Was gehörlose Menschen bzgl. Warn- und Alarmsystem im österreichischen Katastrophenschutz z. B. Hochwasser betrifft – existiert nach wie vor kein auf sie zugeschnittenes Konzept.

CDN: There have been public consultations, but a system does not appear either to have been finalised or implemented.

CH: Auf Anregung der Behindertenorganisationen wurde das Problem mit der Bundesverwaltung angegangen und eine Lösung ist zurzeit in Bearbeitung.

IRL: There is no national emergency early warning system as such, although the government committee charged with planning for a national emergency have indicated they will keep people informed through TV and radio announcements.

SLO: The country has a call centre for Deaf and Hard of Hearing, and it would inform all the mobile phone users: <http://kc.tolmaci.si>.

UK: Covered by the Civil Contingencies Act 2004 - and the secretariat which implements this Act. This recommends many methods of communication.

USA/New York State: Broadcasters, cable operators, etc., are required to make emergency information that they provide to their viewers accessible to persons with hearing and vision disabilities. There is also the Emergency Alert System (EAS).

PARTIAL GUARDIANSHIP

13. Does the law provide for the possibility of partial guardianship?

RELATES TO UN CONVENTION – ARTICLE NO.

12 Equal recognition before the law & 13 Access to justice

BRIEF EXPLANATION OF THE ARTICLE

Article 12 is one of the most heavily discussed articles in the Convention. Many experts and commentaries note a paradigm shift from the principle of “substituted decision-making” to “supported decision-making”. In other words, persons with disabilities should in future be supported in making their decisions rather than the decisions being made for them. This is a prerequisite for fully enjoying many other rights that are firmly anchored within the Convention. The consensus among experts is that implementation of this change has wide-ranging consequences for many established systems of “disempowerment” and “guardianship”. However, experts warn that many states are not aware of this broad scope, believing that the established systems already fulfil the requirements of Article 12.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE































Guardianship should only ever protect and assist persons with disabilities. It should never remove freedom of choice unnecessarily. Plenary guardianship suspends any freedom of choice. So partial or limited guardianship is a prerequisite for implementation of the Convention in accordance with this article. A limited guardianship, on the other hand, can also permit temporary limitation of choice or guardianship only in matters of property. The question is therefore formulated simply to ascertain whether this prerequisite exists without addressing how this option is implemented in practice. As such, the question does not examine the extent to which support is favoured over substitution.

SUMMARY OF RESULTS

The legal prerequisite for implementation of Article 12 is lacking in some countries. In Ireland, United Kingdom and Romania, for instance, guardianship is defined in terms of disempowerment and automatically entails complete “substitute decision-making”.

The statutory situations in many other surveyed states provide very well for this possibility. Legislation in Germany tends to speak of a “caretaker” instead of a guardian.

13. PARTIAL GUARDIANSHIP

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Partial guardianship is available to cover a wide range of different circumstances. For example, temporary guardianship, guardianship only of property, etc.
- Partial guardianship is possible only in a limited number of different circumstances. For example, there is no possibility of guardianship of property.
- Only plenary guardianship is possible.

REMARKS

AT: Verein Sachwalterschaft, Email: § 268 (3) ABGB ist der Sachwalter je nach Ausmaß der Behinderung mit zu besorgenden Angelegenheiten zu betrauen . . . Hinweis 1: In Ö wurde 1984 die Entmündigungsordnung durch das Sachwalterrecht abgelöst, sodass der Begriff Entmündigung nicht mehr aktuell ist. Hinweis 2: Immer jedoch (!) § 280 (1) ABGB: Die behinderte Person kann innerhalb des Wirkungskreises des Sachwalters ohne dessen . . . Einwilligung rechtsgeschäftlich weder verfügen noch sich verpflichten.

CH: Heute unter dem Begriff „Beistandschaft“ (Art. 392.ff ZGB). Im neuen Erwachsenenschutzrecht werden die Beistandschaften auch eine teilweise oder nur punktuelle Einschränkung der Handlungsfähigkeit ermöglichen. Dies sowohl bei der rechtlichen Vertretung wie auch bei Einkommens- und Vermögensverwaltung. Das Erwachsenenschutzrecht ist vom Parlament verabschiedet und tritt voraussichtlich 2013 in Kraft.

DE: §1896 BGB (1) Kann ein Volljähriger aufgrund einer psychischen Krankheit oder einer körperlichen, geistigen oder seelischen Behinderung seine Angelegenheiten ganz oder teilweise nicht besorgen, so bestellt das Betreuungsgericht auf seinen Antrag oder von Amtes wegen für ihn einen Betreuer. (2) Ein Betreuer darf nur für Aufgabenkreise bestellt werden, in denen die Betreuung erforderlich ist.

IRL: Plenary guardianship: A ward of court situation removes a person's legal capacity to make decisions. Decisions are, therefore, made by either a court or a committee of the ward.

UK: Sections 7 & 37 Mental Health Act 1983.

USA/New York State: Under New York's Mental Hygiene Law, guardians may only fulfil the duties assigned to them by the court. In many cases, the court assigns partial guardianship over certain matters, allowing the person with a disability to dictate other decisions in their life.

RESTRICTION OF GUARDIANSHIP

14. Are members of staff of any kind of institution in which persons with disabilities reside subject to restrictions covering their becoming such persons' guardians?

RELATES TO UN CONVENTION – ARTICLE NO.

12 Equal recognition before the law & 13 Access to justice

BRIEF EXPLANATION OF THE ARTICLE

(See also Question 13)

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

If the staff of institutions housing persons with disabilities are also empowered to represent the rights of such persons, this gives rise to a conflict of interests that can be of great disadvantage to the persons with disabilities. In order to prevent such conflicts, this possibility should be completely excluded by law. This indicator was selected since it can be answered unambiguously and, like indicator 13, inquires after the basic prerequisites for implementation of "supported decision-making". Once again, however, it stops short of determining the extent to which the transition to the new paradigm has been completed. The question also intentionally addresses only the statutory situation, therefore, deviations may arise in practice.

SUMMARY OF RESULTS































Only a few countries have laws eliminating the possibility of employees (including directors) of institutions taking over a guardianship role.

One of these is Austria, where this is regulated in the General Civil Code (ABGB). (However, two Austrian NGOs have released statements critical of this practice.)

In general, continental European law appears stricter in this regard than Anglo-American law, particularly since such guardianships are permitted in the USA "given a lack of alternatives".

The NGOs in Ireland, Portugal, Switzerland and Turkey do not consider the rights of persons with disabilities to be at all protected in this way.

14. RESTRICTION OF GUARDIANSHIP

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- No member of staff (including any director or owner) of any institution in which persons with disabilities are resident can also act as guardian to any one of those persons.
- A member of staff (director, owner) can, in certain circumstances and when subject to independent oversight, become the guardian of persons with disabilities resident in the institution.
- No such restrictions exist.

REMARKS

AT: Verein Sachwalterschaft: § 279 (1) ABGB – . . . Bei der Auswahl des Sachwalters ist . . . darauf Bedacht zu nehmen, dass der Sachwalter nicht in einem Abhängigkeitsverhältnis oder in einer anderen engen Beziehung zu einer Krankenanstalt, einem Heim oder einer sonstigen Einrichtung steht, in der sich die behinderte Person aufhält oder von der sie betreut wird.

CH: Es gibt keine besonderen Einschränkungen. Beistände müssen für die vorgesehenen Aufgaben fachlich und persönlich geeignet sein. Eine Interessenkollision wäre ein Hinderungsgrund. Lehnt die betroffene Person einen Beistand ab, muss diesem Wunsch soweit tunlich entsprochen werden (neues Erwachsenenschutzrecht).

DE: ESSL Foundation: Vortrag von Klaus Lachwitz von Inclusion Europa, Germany, beim Symposium on the legal capacity of persons with disabilities in light of the UN-Convention on the Rights of Persons with Disabilities (CRPD) 4 June 2009, Brüssel; organisiert vom European Foundation Center and European Disability Forum.

IRL: There are no restrictions, the court decides who is the best person to make a decision.

UK: Guardianship applications in which a person other than a local social services authority is named as guardian shall be of no effect unless it is accepted on behalf of the person by the local social services authority.

USA/New York State: Unless the court finds that no other person is available or willing to serve as guardian, a non-relative who is a provider or the employee of a provider of health care, day care, educational, or residential services to the incapacitated person, whether direct or indirect, may not serve as guardian for an incapacitated person.

SIGN LANGUAGE IN COURT

15. Is sign language an officially recognised language in the courts?

RELATES TO UN CONVENTION – ARTICLE NO.

12 Equal recognition before the law & 13 Access to justice

BRIEF EXPLANATION OF THE ARTICLE

This article involves ensuring that persons with disabilities have equal access to justice. Participation within the judicial system should be as effective and direct as possible in all possible roles with respect to the courts.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

People with hearing impairments only enjoy equal access to justice if sign language is an officially court-recognised language; otherwise, for example, interpreters may not be automatically permitted or the court may not cover the costs for interpreters.

This question was selected primarily because it permits the implementation of this point to be very clearly determined.































SUMMARY OF RESULTS

This question yields a particularly large number of “green” responses: in most countries, persons with hearing impairments are not disadvantaged in this respect.

In Switzerland and United Kingdom, sign language is not considered “officially recognised”; however, the court does cover the costs of a sign language interpreter on the basis of the laws protecting persons with disabilities. In all of Turkey, there are 25 trained interpreters, making it appear unlikely that this right can be guaranteed. In Austria, sign language is recognised as an official language in the national constitution, including the resulting right to an interpreter; however, no standardised sign language exists within the country (similar to the situation in Slovenia).

In Ireland, only “appropriate provisions” must be established for accessibility without a legal basis.

15. SIGN LANGUAGE IN COURT

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Sign language is both an official language of the courts and persons with a hearing impairment have the right to a translator paid for by the state.
- Sign language is only officially recognised in some courts. Or those with a hearing impairment do not have a right to a translator. Or a translator is not paid for by the state.
- Sign language is not recognised in the courts, nor do those with a hearing impairment have a right either to a translator or for any translator to be paid for by the state.

REMARKS

AT: Mag. Hartmuth Haller, BMJ (Zivilverfahren): Es gibt die Bestimmung: Wenn jemand Gebärdensprache spricht, dann hat er ein Recht auf einen kostenlosen Übersetzer. In der Bundesverfassung 8a Abs. 3: Österreichische Gebärdensprache ist als eigenständige Sprache anerkannt.

CH: Gebärdensprache wird nicht in der Bundesverfassung als offizielle Sprache anerkannt. Das verfassungsrechtliche Diskriminierungsverbot in Art. 8 Abs. 2 BV erteilt dem Einzelnen aber einen Anspruch auf einen Gebärdendolmetscher im Verfahren vor einer Behörde. Auch aufgrund der verfassungsrechtlichen Garantien der verfahrensrechtlichen Kommunikation („rechtliches Gehör“, Art. 29. Abs. BV) haben hörbehinderte Menschen auch das Recht auf einen Gebärdendolmetscher. Das BehiG verlangt zudem, dass staatliche Dienstleistungen für Menschen mit Behinderung zugänglich sind (Art. 2 Abs. 4 in Zusammenhang mit Art. 3 lit. e und Art. 8 Abs. 1 BehiG). Und somit auch unter gewissen Voraussetzungen Gerichtsverhandlungen.

IRL: Ireland does not recognise ISL (Irish Sign Language) as an official language. In practice, courts do pay for interpreters when requested to do so, but it is not an explicit right.

SLO: The act on the use of Slovenian sign language was adopted in 2002. The general provisions of the act also determine the extent and manner of exercising the right to a sign language interpreter to ensure equal integration of deaf people in life and working environment.

TR: At least 25 applicants have been selected and recruited as sign language translator in the Turkish Social Services and Child Protection Institution (SHCEK).

UK: Sign language may not be recognised as an official language, but there is a right to have sign language interpretation provided. The state is responsible for covering the costs associated with this accommodation.

USA/New York State: Sign language interpreters are provided in New York State and the federal courts.

LEGALITY OF CAGE BEDS

16. Are cage beds illegal?

RELATES TO UN CONVENTION – ARTICLE NO.

15 Freedom from torture or cruel, inhuman or degrading treatment or punishment

BRIEF EXPLANATION OF THE ARTICLE

Freedom from torture and inhuman treatment or punishment is also included in the Convention for the Protection of Human Rights and Fundamental Freedoms however, this Convention sees the need for special protection of persons with disabilities, which is the reason for the inclusion of Article 15.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

Inhuman and degrading treatment of persons with disabilities, particularly in “homes” (“institutions”), is one of the largest points of criticism regarding failure to implement the rights of the UN Convention both in studies and reports as well as in many discussions with NGOs and affected persons.

The question regarding a statutory ban on cage beds (a question was raised about the term “cage beds”, but there is no clear definition of the terms “net beds” and “enclosure beds”) was selected as a clear and well-defined criterion for implementation even though it is not explicitly mentioned in the UN Convention.

This approach is intended to ascertain whether a legal basis exists for restraining persons with disabilities in cage beds without their voluntary agreement. Whether there is a legal basis for persons with disabilities being restrained in cage beds without their consent is under review.































SUMMARY OF RESULTS

In most surveyed countries, there is a defined statutory ban on cage beds or at least the NGOs are of the opinion that while cage beds are not illegal, they “are no longer in use”.

Austria is one country in which cage beds are neither banned nor confirmed by NGOs as no longer in use.

On the contrary, an international report from 2009 makes clear reference to the use of cage beds as one of a number of heavily criticised treatment and accommodation measures. Sweden and Switzerland have laws banning the use of cage beds.

16. LEGALITY OF CAGE BEDS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Yes.
- Not illegal, but out of use, or used only in certain, strictly monitored, circumstances.
- No.

REMARKS

AT: (1) Es gibt zahlreiche Vorwürfe zu übermäßigem und unkontrolliertem Gebrauch von Käfig-/Netzbetten und Vier-Punkt-Fixierung. (2) Prof. MR Dr. Gerhard Aigner (BMG): Kein ausdrückliches Verbot bestimmter freiheitsbeschränkender technischer Maßnahmen, etwa bestimmte Betten, da diese nicht normiert sind, aber freilich beginnend mit grundrechtlich-verfassungsrechtlichen Vorgaben (z. B. BVGPersFr), indem strengste Vorgaben in Richtung ultima ratio bestehen.

CH: Anwendbar sind jedoch der Grundsatz der Menschenwürde, das Recht auf persönliche Integrität sowie der Grundsatz der Verhältnismäßigkeit. Das neue Erwachsenenschutzrecht konkretisiert diese Verfassungsrechte/Grundsätze und regelt unter welchen Voraussetzungen ausnahmsweise eine Einschränkung der Bewegungsfreiheit zulässig ist. Für diese Situationen sind insbesondere die Protokollierung und die Information der Vertretungspersonen vorgeschrieben und es gibt eine Beschwerdemöglichkeit an die Behörde.

DE: Nein, nicht verboten, aber auch nicht in Gebrauch.

IRL: The definition of 'cage bed' is important. Bodily restraints are, however, addressed in the Irish Mental Health Act.

SWE: "Cage beds are legal: If there is an immediate danger to a patient."

SPA: Out of use.

UK: Emails requesting this information have thus far gone unanswered.

LIBERTY OF MOVEMENT

17. Are all persons with disabilities able to enter or leave the state on an equal basis with others?

RELATES TO UN CONVENTION – ARTICLE NO.

18 Liberty of movement and nationality

BRIEF EXPLANATION OF THE ARTICLE

States parties shall recognise the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

- Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
- Have the right to obtain documentation of their nationality or other documentation of identification;
- Are free to leave and travel to any country, including their own.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

This question asks whether persons with disabilities are subject to exactly the same rules with regard to entering or leaving a country, whether for purposes of migration or as a visit. For example, if the visa application contains a reference to "health" and "fitness for work", this would be considered an indication of unequal treatment of persons with disabilities. The survey mentions by way of example that the US I-94W Nonimmigrant Visa Waiver Arrival/Departure Record specifically inquires about "physical or mental disorders".































SUMMARY OF RESULTS

In the majority of surveyed countries, persons with disabilities are able to enter without difficulties or the need to share information about their disability.

In Denmark, the social security authority must grant approval for leaving the country for longer than four weeks on the justification that this could make personal assistance and other support necessary. The approval process is described as drawn-out and complicated.

The USA requires all foreigners entering the country by airplane to first fill out the "Electronic Travel Authorization System (ESTA)" form, which includes questions about physical and mental disabilities. Canada is the only country that has an explicit clause in its immigration law stating that persons considered exceptional burdens with regard to health and social services can be refused entry.

17. LIBERTY OF MOVEMENT

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Nowhere in any of the legislation, procedures or documentation covering either immigration or the granting of visas is there any reference either to disabilities or disorders.
- References, for example, are made in legislation, procedures or visa application documentation to either disabilities or disorders. Or such terms as "ability to work" or "healthiness" are used.
- Entry to or exit from a state is dependent (not necessarily solely) on whether or not a person has a disability.

REMARKS

AT: Mag. Gollia (Ministeriumssprecherer BMI): Es gibt keine Hinweise.

CDN: Canada's Immigration Act has an explicit clause that denies entry to a person who is deemed to pose an excessive burden to health and social services. There are exceptions to this clause – for example, it's inapplicable to those applying under family reunification, as refugees or on humanitarian grounds.

CH: Allerdings können sich faktisch z. B. bei der Personenfreizügigkeit Probleme für die Nichterwerbstätigen ergeben, welche aufgrund der Behinderung (Bezüge von Leistungen der sozialen Sicherheit) entstehen.

DK: Leaving the country is restricted as social authorities need to give permission for stays of more than four weeks outside Denmark.

IRL: Difficult question to answer, from an Irish perspective there are a number of visas (student, work permits etc). Nowhere in any of the legislation, procedures or documentation covering either immigration or the granting of visas is there any reference either to disabilities or disorders.

SWE: In theory, but not always in practice

USA/New York State: On a national level, US law now requires all foreigners to fill out an Electronic Travel Authorization System (ESTA) form prior to entering the country via plane, and there are specific questions about physical and mental disabilities on the form.

PERSONAL ASSISTANCE

18. Is the personal assistance necessary to support living and inclusion in the community available, by law, to all those with disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.

19 Living independently and being included in the community

BRIEF EXPLANATION OF THE ARTICLE

Persons with disabilities must have the same options for participating in the community as other persons. The necessary conditions and structures for this must be established. It must be ensured that persons with disabilities can choose their place and manner of residence as well as with whom they wish to live on an equal basis with others. In order to realise this, personal assistance must be made available that supports living within the community and helps prevent isolation and segregation. Such assistance must be offered by organisations with close community ties and must also be accessible to all persons with disabilities.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The personal assistance options that relieve persons with disabilities of the actions they cannot perform for themselves due to their disabilities is one of the key pillars in implementation of this article. A person with disabilities should be able to decide for herself which services they wishes to take advantage of as well as, when, where and from whom.

This question refers in particular to whether government agencies are obligated to establish such support systems and services.

SUMMARY OF RESULTS

Most countries do not have statutory provisions regarding needs-based personal assistance. Sweden and Romania represent the exceptions here. Due to federal laws, differing regulations apply within the individual provinces of Austria, Canada and United Kingdom (see page 115). Statutory regulations do exist in Romania; however, one NGO has commented that the available resources and willingness of the personal assistant are key factors.































Slovenia is in the process of preparing such a statutory regulation. A pilot project was under debate in the Swiss parliament at the time the survey was performed.

FURTHER INFORMATION

<http://www.assistentzbudget.ch/Deutsch/Untermenu/ArtikelAll.asp?all=all&ObjektArtNr=1&RootNr=1>

<http://www.ahv-iv.info/iv/00233/00245/index.html?lang=de>

18. PERSONAL ASSISTANCE

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- A law, or laws, exist that ensure that all persons with disabilities have access to such personal assistance.
- Such a law, or laws, do exist, but either do not provide all the personal assistance necessary, or only to certain persons with disabilities.
- No such laws exist.

REMARKS

AT: Unterschiedliche Regelungen in den Bundesländern, insbesondere für Menschen mit intellektueller Behinderung.

CDN: Supports and services are provided, in general, by provincial and territorial governments. While governments do provide direct support to people with disabilities, it is not clear whether there is an explicit law that mandates the provision of all the support required.

CH: Zurzeit wird die Verankerung einer solchen staatlich bezahlten persönlichen Assistenz vom Parlament debattiert. Bis Ende 2011 läuft ein Pilotprojekt dazu. Das Assistenzbudget stünde nur Personen mit Behinderung zur Verfügung, welche eine Hilfenentschädigung erhalten.

ROM: Under Romanian law, a disabled person included by a commission in the "serious" category can have a personal assistant offer all of the kind of support needed for inclusion in the community - school, work, etc. In most cases such personal assistants are family members.

SLO: This issue is included in the proposal for a new act on equal rights, but the act has not yet been adopted.

UK: The NHS and Community Care Act 1992 place a duty on the local authority to assess people who may be in need of assistance. However, there may be disagreements about the nature or level of support offered.

FULL FINANCIAL SUPPORT FOR ASSISTANCE

19. Are all those with disabilities legally entitled to the full financial support needed to provide the personal assistance necessary to support their living and inclusion in the community?

RELATES TO UN CONVENTION – ARTICLE NO.

19 Living independently and being included in the community

BRIEF EXPLANATION OF THE ARTICLE

See Question 18.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

If the government legally mandates or organises personal assistance services, the question remains whether these are also affordable for persons with disabilities and whether they are offered to all such persons. Many NGOs and affected persons have taken special notice here of persons with mental disabilities since they require more specialised – and frequently also more expensive – assistance services.

SUMMARY OF RESULTS


















Denmark and Sweden hold leading positions on this question. The NGOs indicate that, in these countries, all persons with disabilities enjoy equal legal entitlement to full financial support in order to receive necessary personal assistance. In the remaining countries, either no legal entitlement exists or subsidisation is only available under specific conditions (e.g. type or degree of the disability).

Slovenia and Switzerland are currently in the preparation phase.

No legal entitlement exists in Austria; however, support can be granted under certain conditions.

(See page 116)

19. FULL FINANCIAL SUPPORT FOR ASSISTANCE

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All persons with disabilities are legally entitled to receive the full financial support needed to provide the personal assistance necessary to support their living and inclusion in the community.
- Such financial support, although mandated by law, is either not available to all or is limited in extent.
- No person with disabilities is legally entitled to any such financial support.

REMARKS

AT: (1) Unter bestimmten Voraussetzungen werden Förderungen gewährt. (2) Diese Leistungen der Länder beinhalten keinen Rechtsanspruch.

CH: Siehe Antwort auf Frage 18. Die Höhe des Assistenzbeitrages ist begrenzt.

HU: Es gibt zwar staatliche Unterstützung, diese reicht aber bei Weitem nicht aus. Außerdem wird sie nur Menschen bezahlt, die zu 100% behindert sind.

IRL: No person with a disability is legally entitled to full financial support.

ROM: Durch eine gesetzliche Regelung, ist die Höhe der finanziellen Unterstützung abhängig vom Grad einer Behinderung.

SLO: The law covering personal assistance is currently being prepared.

SWE: In Sweden there is a general welfare system. The public services systems and social insurance systems are aimed at the entire population and not just "the needy".

UK: This is means-tested and people must contribute to the cost of social care depending upon their level of income.

USA/New York State: People with disabilities are entitled to receive Social Security Disability Insurance (SSDI) and Supplementary Security Income (SSI) if they are unemployed, or their income is below a certain level. It should be noted that people who are blind are eligible for more SSI money than other disability groups.

SAFEGUARDS IN INSTITUTIONS

20. Do safeguards exist to ensure that, when persons with disabilities in institutions have the choice as to whether to stay or to go, they stay only under their own volition?

RELATES TO UN CONVENTION – ARTICLE NO.

19 Living independently and being included in the community

BRIEF EXPLANATION OF THE ARTICLE

See Question 19. An important part of this right to self-determination consists of persons with disabilities having the option to freely select and choose their place of residence and not being required to live in a particular living arrangement.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

In practice, the largest impediment in most countries to free selection of place of residence and living arrangements is that persons with disabilities live more or less compulsorily in facilities (“institutions”, “homes”) and no true freedom of choice exists for persons with disabilities.

The safeguards mentioned in the question could take the form of regularly informing persons with disabilities that they have a choice whether or not to remain at the facility. In evaluating the response, it must be noted that some of the NGOs surveyed are also operators of facilities for persons with disabilities.































SUMMARY OF RESULTS

An independent decision regarding where and how to live is only permitted in Denmark, Sweden and Slovenia. Germany does have a corresponding system, but the agencies of the Ministry for Social Affairs tasked with performing the evaluations are also responsible for overseeing the homes, meaning that no objective monitoring system exists.

In Slovenia, this provision does not apply to persons under guardianship or with severe mental illness.

This right does exist in United Kingdom, but there are also concerns regarding what is called the “Bournemouth Gap”: persons with disabilities living “informally” in many facilities because they have been hospitalised there by the healthcare system, thereby placing them outside the purview of legislation on persons with disabilities. In Austria, the monitoring system is implemented at the provincial level as a result of the federal system (see page 117), and the same applies in Canada.

20. SAFEGUARDS IN INSTITUTIONS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Every institution is, e.g., screened annually by an independent body. Persons with disabilities are always given the choice as to whether to stay or to go.
- Institutions may not be screened, or persons with disabilities in those institutions may not be informed of their freedom to choose as to whether they want to remain in them.
- Institutions are not screened and persons with disabilities therein have no freedom of choice as to whether they remain there or not.

REMARKS

AT: Verein für Sachwalterschaft: Alle Behindertenhilfegesetze sehen zwar einen Rechtsanspruch auf einen vollbetreuten Wohnplatz vor, es besteht aber kein Rechtsanspruch, einen bestimmten Wohnplatz zu wählen. Es gibt auch keinen Rechtsanspruch auf eine Betreuung/Assistenz zu Hause.

CDN: There are no federal government-run institutions in Canada. Institutions in Canada are operated by the provincial/territorial governments.

CH: Die betroffene Person und ihr nahestehende Personen haben ein Beschwerderecht gegen eine behördliche Unterbringung oder gegen Entscheide des Beistandes. Mit dem neuen Erwachsenenschutzrecht werden die Einrichtungen verpflichtet, die Behörde zu informieren, wenn sich niemand von außerhalb der Einrichtung um die betroffene Person kümmert. Die Kantone haben eine Aufsichtspflicht über Wohn- und Pflegeeinrichtungen.

DE: Jährliche Überprüfungen werden zwar durchgeführt, aber die örtlichen Heimaufsichten sind keine unabhängigen Institute, sondern sind z. B. den Sozialministerien der Länder zugegliedert und somit nicht neutral bei der Frage.

IRL: The Standards for Residential Services for People with Disabilities published in May 2009 by the Health Information and Quality Authority (HIQA) address this issue. However, the standards have not yet been implemented.

SLO: Except persons with legal guardians or persons with severe mental disorders.

SWE: Administrators and guardians ad litem are subject to the supervision of the chief guardian. Provisions concerning their administration and duty to report are largely the same as those applicable to guardians.

UK: People detained formally under the Mental Health Act have rights to review set out within the Act. In 2005 legislation came into force to address the phenomenon known as the „Bournewood Gap“. This involved the scenario where people were in an institution informally but did not have capacity to decide whether to leave. The Deprivation of Liberty Safeguards included in the Mental Capacity Act 2005 aim to address this.

TV CHANNELS FOR BLIND PERSONS

21. What percentage of either programmes or airtime on the most watched public TV channel also provide assistance to blind and visually impaired audiences?

RELATES TO UN CONVENTION – ARTICLE NO.

21 Freedom of expression and opinion, and access to information

BRIEF EXPLANATION OF THE ARTICLE

Persons with disabilities have the same right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others. It is therefore necessary to ensure that information intended for the general public is provided to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost. According to the UN Convention, alternative forms and formats of communication must be used in addition to sign languages and Braille, including electronic media and the internet.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

This and the following questions differ from most other questions by inquiring about the measurable implementations since these figures are fundamentally available (or could be available).

This question addresses the concrete use of supplemental commentaries alongside TV images that can generally be broadcast via additional audio channels (or one of the two stereo audio channels).

SUMMARY OF RESULTS

Blind and visually impaired persons are far from enjoying their right to be informed and entertained via TV on an equal basis with others. The percentage of all TV programmes that are broadcast with additional commentaries for the blind and visually impaired is low in all countries.

Sweden reports 25 percent, which is an exceptional figure. United Kingdom indicated a share of ten percent for BBC productions.

The local information source for Germany reported “three to four films with audio commentaries per day”.
















FURTHER INFORMATION

http://www.bci.ie/documents/revised_access_rules_june_07.pdf

http://www.medienheft.ch/politik/bibliothek/p08_MaierSarah_01.html

<http://www.news.de/medien/855045417/wie-blinde-fernsehen/1/>

21. TV CHANNELS FOR BLIND PERSONS

	Austria (AT)	1,5 %
	Canada (CDN)	n.a.
	Switzerland (CH)	"24 films 2009" ^{*)}
	Germany (DE)	"3-4 audio films per day"
	Denmark (DK)	<25%
	Hungary (HU)	<25%
	Ireland (IRL)	< 25%
	Portugal (POR)	<25%
	Romania (ROM)	"< 0,1 %"
	Slovenia (SLO)	"only one movie exists"
	Spain (SPA)	<=25%
	Sweden (SWE)	"25%"
	Turkey (TR)	<25%
	United Kingdom (UK)	"10%" (BBC)
	USA	n.a.

- $\geq 75\%$

- $>25\% < 75\%$

- $\leq 25\%$ (Or: No figures are available.)

^{*)} SRG: 1 news programme per day in sign language

REMARKS

AT: ORF: 1,5% 2009 – 2011 müssen 2% erreicht werden.

CH: Siehe dazu Art. 7 und 8 der Radio und Fernsehverordnung (RTVV, SR 784.401): Die SRG muss täglich in jeder Amtssprache mindestens eine Informationssendung ausstrahlen, die in Gebärdensprache aufbereitet ist. (Art. 7 Abs. 2) Die SRG muss monatlich in jeder Amtssprache mindestens zwei Filme ausstrahlen, die mit Audio-Beschreibung für Sehbehinderte aufbereitet sind. Davon ist die Hälfte für Schweizer Filme vorzusehen. (Art. 7 Abs. 3). 2009 waren es gerade mal 24 Filme.

DE: Martina Wiemer, „Deutscher Hörfilm“: Gerade mal 3–4 Filme werden täglich als Hörfilme auf deutschen TV-Sendern ausgestrahlt.

IRL: Exact figures for the percentage of programming providing assistance to blind and visually impaired audiences on the main public TV channels RTE1 and RTE2 are available: less than 25% on both channels in 2009.

SLO: Only one Slovene movie was made this way. No other assistance exists.

SWE: Approximately 25% of the most watched TV programmes provide assistance to blind and visually impaired audiences.

TV CHANNELS WITH SUBTITELING/SIGN LANGUAGE

22. What percentage of programmes or airtime on the most watched public TV channel have simultaneous translation into sign language, close captioning or sub-/sur-titling?

RELATES TO UN CONVENTION – ARTICLE NO.

21 Freedom of expression and opinion, and access to information

BRIEF EXPLANATION OF THE ARTICLE

See Question 21.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

This and the previous question differ from most other questions by inquiring about the measurable implementations since these figures are fundamentally available (or could be available).

This question addresses the concrete use of capabilities for making TV accessible to the hearing impaired, listing subtitling and display of a sign language interpreter as possibilities.

SUMMARY OF RESULTS

The percentage of TV programmes that are translated into sign language or carry subtitles for the hearing impaired is significantly higher than the figure for supplemental commentary for the blind and visually impaired. This is due to the simpler technical implementation (via teletext or the subtitling technology that has been common for many years).

United Kingdom and the USA satisfy the UN Convention almost 100 percent via subtitling, and Sweden and Ireland achieve more than 75 percent.

In Slovenia, Romania and Turkey, values below 25 percent were generally reported.

Austria lies in the middle range with a current value of about 40 percent but has plans to expand the current offering to reach 55 percent in 2011.

The use of translation into sign language is rare, and – if it exists at all – is restricted to individual programmes, even in the “frontrunner states”.































FURTHER INFORMATION




<http://www.nytimes.com/2010/06/21/business/media/21captions.html>

<http://www.srgssrideesuisse.ch/de/medien/single/date/2010/fernsehsender-der-srg-ssr-steigern-auch-2009-ihre-leistungen-fuer-sinnesbehinderte-3/>

http://www.welt.de/print-welt/article432301/Weltweit_erste_Studie_ueber_Gehoerlose_und_TV.html

22. TV CHANNELS WITH SUBTITELING/ SIGN LANGUAGE

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

 $\geq 75\%$
 $> 25\% < 75\%$
 $\leq 25\%$ (Or: No figures are available.)

REMARKS

AT: Fr. Klettner (ORF): 2009 waren es 35,34%. ORF: Untertitelung erstes Halbjahr 2010 zwischen 38 und 40%. Bis Ende 2011 müssen 55% erreicht werden.

CH: 2009: 26,2% laut

<http://www.srgssrideesuisse.ch/de/medien/single/date/2010/fernsehsender-der-srg-ssr-steigern-auch-2009-ihre-leistungen-fuer-sinnesbehinderte-3/>

HU: 25–75%. Manchmal bei den Nachrichten, bei Übertragungen aus dem Parlament und es gibt einmal im Monat eine Sendung für Menschen mit Behinderung.

IRL: Figures for RTÉ1 and RTÉ2, the main public TV channels are: RTÉ One greater than 75% subtitled in 2009; RTÉ Two between 25% and 75% subtitled in 2009. The Broadcasting Commission of Ireland has set a target of 1% Irish Sign language for RTÉ1 and RTÉ2.

ROM: Less than 25%. Only foreign language films are subtitled, and they are subtitled for everybody. There is only one broadcast with sign language on the national TV (TVR1): it is aired weekly and lasts 45 minutes.

SLO: Some news, shows, documentaries are also subtitled on demand through the teletext option.

SWE: We have not found any information on what percentage of programmes or airtime that has simultaneous translation into sign language. (We assume the percentage is very low!) Approximately 75% of the programmes are sub titled into Swedish.

UK: In 2007 the figure was 80%, with an aim of 100% by April 2008.

USA/New York State: Almost 100% of prime time television programmes are closed captioned on the major networks. For an interesting article about closed captioning on the internet see <http://www.nytimes.com/2010/06/21/business/media/21captions.html>

ACCESSIBLE OFFICIAL WEBSITES

23. What percentage of the state's official websites are universally accessible?

RELATES TO UN CONVENTION – ARTICLE NO.

21 Freedom of expression and opinion, and access to information

BRIEF EXPLANATION OF THE ARTICLE

See Question 21.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The internet is the central information and communication medium for persons with disabilities that can be used by persons with all types of disabilities. Information available via websites can only be utilised by many persons with disabilities (in particular the blind and persons with mental disabilities) if the websites are designed to be accessible.

This involves larger fonts, greater contrast, simpler page navigation, etc., for which a recognised system of standards now exists (WCAG – Web Content Accessibility Guidelines; WAI – Web Accessibility Initiative), which should be considered in designing universally accessible websites. WCAG 1.0 has been known for some time, while WCAG 2.0 is relatively new. The possible answers were tiered accordingly. The question inquires about websites that are created by governments (including ministries and administrative agencies). A well substantiated response can only be based on an in-depth study; in cases where such studies do not exist, these countries were also assigned a "red" light.































SUMMARY OF RESULTS

In a majority of cases, official websites are not designed with user-friendly accessibility for persons with disabilities or no publications on this topic are available.

In Germany, Austria, Denmark, Canada and United Kingdom, studies exist showing that at least a large portion of official websites are designed according to at least WCAG 1.0.

In Slovenia, Turkey and Romania, either no accessibility exists or no studies are available.

23. BARRIERFREE OFFICIAL WEBSITES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- $\geq 75\%$ accessible under Universal Guidelines WCAG 2.0
- $>25\% < 75\%$ accessible under WCAG 2.0 or WCAG 1.0
- $\leq 25\%$ (Or: No figures are available.)

REMARKS

AT: 68 Domänen von 11 Ministerien haben zu 94% WAI-A-Kriterien erfüllt laut der Erhebung „Accessibility und Usability“ im Jahr 2008. Evaluiert wurde in Bezug auf die zu diesem Zeitpunkt gültigen Web Content Accessibility Guidelines (WCAG) des World Wide Web Consortiums (W3C) in der Version 1.0. Diese Richtlinien umfassen eine Vielzahl „technischer“ Kriterien, die erfüllt werden müssen, um einen Web-Auftritt barrierefrei zu gestalten.

CDN: As far as is understood, the federal government meets all or most accessibility standards.

CH: Bund: annähernd 100%; Kantone: unterschiedlich. Einige wenige Websites des Bundes (EBGB, BSV; BAG während der H1N1-Kampagne) bieten oder boten Videos in Gebärdensprache an.

DE: Essl Foundation: Seiten, die für behinderte Menschen besonders interessant sind (als Beispiele werden Seiten des Bundesarbeitsministeriums und des Behindertenbeauftragten genannt), müssen bis 31. Dezember 2003 mit den Checkpunkten der Priorität I konform sein. Für alle anderen Seiten gilt ebenfalls Priorität I, jedoch mit einer Umsetzungsfrist bis 31. Dezember 2005. Schrittweise ist wiederum auf Landesebene (d.h. für Seiten des Landes) unterschiedlich definiert. Bayern z. B. hat Fristen bis 2013 gesetzt, in Berlin hingegen sollten alle neu gestalteten Websites schon seit Inkrafttreten des Landesgesetzes 1999, alle Übrigen seit Januar 2007 barrierefrei sein.

SWE: We do not have a single system for monitoring the accessibility of websites in Sweden, nor in the EU. There are some separate statistics concerning the web site of the governmental authorities.

UK: According to the Centre for Information Guidance as of 15/10/09 public sector websites were still referring to WCAG1.0

USA/NY: Information not available – New York State is pushing to make all state websites universally accessible in the next few months and has made a big push with educating state employees about ensuring websites are accessible to all.

RIGHT TO MARRY, HAVE AND RAISE CHILDREN

24. Do persons with disabilities have the same rights as others to marry, have children and raise those children?

RELATES TO UN CONVENTION – ARTICLE NO.

23 Respect for home and the family

BRIEF EXPLANATION OF THE ARTICLE

Persons with disabilities are entitled to the same rights as all other persons with regard to marriage, family, parenthood and partnerships. They have the right to enter into marriage and to start a family. It must be ensured that they may freely and responsibly decide the number of children they will have and that they have access to information and education on matters of reproduction and family planning. Persons with disabilities have the right to retain their fertility on an equal basis with others. It should be noted regarding this article that these rights of persons with disabilities should differ in no way from the rights of all other persons and that they are already included in the UN Universal Declaration of Human Rights. They are nevertheless treated here in detail.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE













The three rights specifically established in the UN Convention (see above) were also used directly as social indicators. The question only inquires regarding restrictions to these rights and does not address the obligation set forth in the UN Convention to strengthen these rights through various means.

The questionnaire contains the remark that restrictions in violation of human rights may consist of persons with disabilities being sterilised against their will or in marriage being prohibited for “health reasons”.

SUMMARY OF RESULTS

Although, as previously mentioned, this portion of the UN Convention has already been part of the Universal Declaration of Human Rights since 1948, NGOs from many countries note that existing practices, as well as legislation, conflict with these principles in some cases. The Canadian NGO notes that the rights are enshrined in law but that many cases are known in which mothers with disabilities have their children taken away against their will. In Germany, the situation of persons with physical disabilities is described as satisfactory; however, marriage by persons with mental disabilities is subject to approval. Regulations in the USA are similar. In Denmark, physicians are obligated to issue a recommendation regarding the capacity to perform the duties of parenthood, although this is required for all persons, with or without disabilities. Turkey forbids persons with mental disabilities to marry. Such a prohibition prevents any independent life planning. According to information from Austrian NGOs, all the listed rights are regularly restricted. Persons with disabilities cannot decide for themselves with whom they would like to live. Sterilisations are systematically advised to relatives in order to “at least avoid the problem of children”. Court orders frequently result in the children not being raised by their parents with disabilities. In Portugal, sterilisation is permitted for young persons with mental disabilities only with a court order that makes reference to a medical evaluation and if there is proof that it is his/her will.

24. RIGHT TO MARRY, HAVE AND RAISE CHILDREN

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- The rights of those with disabilities are in no way different from the rights of anybody else with regard to any and all of these.
- The rights of those with disabilities differ from the rights of anybody else with regard to one or two of these.
- The rights of those with disabilities differ from the rights of anybody else with regard to all of these.

REMARKS

AT: Dr. Meierschitz, ÖAR: Es gibt immer noch Möglichkeiten zu sterilisieren bzw. unfruchtbar zu machen, da die Betroffenen nicht ausreichend informiert und beraten werden. Abtreibungen finden ohne ausreichende Aufklärung bzw. auch gegen das Verständnis der Betroffenen statt. Menschen mit Lernbehinderungen oder psychischen Beeinträchtigungen wird in den meisten Fällen durch eine gerichtliche Entscheidung nicht die Möglichkeit gegeben, ihr Kind selbst zu erziehen. Es gibt keine Zahlen darüber, wie viele Menschen mit (psychischen) Beeinträchtigungen verheiratet sind oder Kinder haben.

CDN: "It has been our experience that while people with disabilities have the same rights, they do not have the same opportunities. We hear frequent stories of women with intellectual disabilities who have their children removed from their care. There is a significant gap between theory and practice on this issue."

CH Heirat: Urteilsfähigkeit vorausgesetzt, aber gemäss Rechtsprechung des Bundesgerichts sind die Anforderungen an diese niedrig. Das Zustimmungserfordernis des Vormundes bei entmündigten Personen wird mit dem neuen Erwachsenenschutzrecht aufgehoben. Die Verwirklichung dieses Rechtes kann aber für Menschen, die in Institutionen leben, u. U. schwierig sein. Die Sterilisation ist nur erlaubt bei urteilsfähigen, erwachsenen Personen (ab 18 Jahren), wenn diese selbst frei einwilligen. Sind diese Personen entmündigt, müssen zusätzlich der gesetzliche Vertreter sowie die vormundschaftliche Aufsichtsbehörde ihre Zustimmung erteilen.

DE: Ja mit Einschränkungen ggf. bei geistigen Beeinträchtigungen oder psychischer Erkrankung, z. B. Heirat ist zustimmungspflichtig.

DK: Persons with disabilities are free to marry as they please. Sterilisation by force is no more in use. It is an option to apply for being sterilised after a certain age for everybody – persons with and without disabilities alike.

IRL: For the majority of people with disabilities in Ireland there is no impediment to getting married. However, the need for legal capacity to make the decision excludes people with intellectual disabilities and also people with mental health difficulties.

POR: There are legislative restrictions on marriage in certain cases of dementia and when a person has been legally declared incapable because of mental disorder. Sterilisation of young people with mental disabilities in the area is allowed only after permission of the court based on medical opinions and evidence that this would be his will.

TR: According to the Turkish Civil Law only people with mental disabilities are not permitted to marry. There are no barriers to marriage for people with other disabilities.

UK: Art. 8 of the Human Rights Act 1998 (The Right to Marry and Found a Family) and Art.14 HRA

USA/NY: Mental illness is, for example, an impediment to marriage.

RIGHT TO PRIMARY MAINSTREAM EDUCATION

25. Does a child with disabilities have the right receive free and compulsory primary education within the mainstream educational system?

RELATES TO UN CONVENTION – ARTICLE NO.

24 Education

BRIEF EXPLANATION OF THE ARTICLE

The States Parties shall ensure an inclusive education system at all levels and lifelong learning. In particular, they shall ensure that persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live. The right to an inclusive education is explicitly established rather than a "good education at 'special schools'".

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

Persons with disabilities may not be excluded from the general education system, whether at the primary or subsequent levels. All necessary support must be provided to ensure complete and efficient inclusion. Since there is a fundamental organisational distinction in Austria and most other countries between primary school and the other levels of education, primary education was specially singled out in this question. The question asks whether every child has the right to an inclusive education. (See here Question 119).

SUMMARY OF RESULTS

According to the survey, the school systems in almost all countries have a difficult time ensuring this right. It was also discovered that distinctions between theory and practice were more difficult to ascertain with particular regard to this question.












The NGOs in many countries agree that this right exists but that in practice the majority of students do not receive an inclusive education and that their established right cannot be taken advantage of. In practice, there are a great many obstacles – as already implied by the comprehensive list of measures included in the UN Convention.

In Austria, the right does exist in theory, but in actuality, far too few schools are sufficiently equipped for it to be realised. The USA (which has not yet ratified the UN Convention) is the only country included in the study with legislation requiring education in the "least restrictive environment". This means that pupils with disabilities can be separated from their peers under certain circumstances.

FURTHER INFORMATION

<http://www.oireachtas.ie/documents/bills28/acts/2004/A3004.pdf>

25. RIGHT TO PRIMARY MAINSTREAM EDUCATION

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Every child with a disability has the right to receive free and compulsory primary education within the mainstream educational system.
- Only children with certain disabilities have such a right. Others must attend special schools.
- A child with disabilities has no right to receive free and compulsory primary education within the mainstream educational system.

REMARKS

AT: Dieses Recht besteht theoretisch: In der Praxis gibt es viel zu wenig barrierefreie Schulgebäude und kaum entsprechend ausgebildetes Lehrpersonal.

CH: Die Schweizer Bundesverfassung garantiert jedem Kind das Recht auf einen genügenden und unentgeltlichen Grundschulunterricht (Art. 19 BV). Die Kantone sind hierzu zuständig. Ein Recht auf Unterrichtung in einer Regelschule (im Gegensatz zu einer Sonderschule) gibt es nicht. Es gibt aber Art. 8 Abs. 2 BV, welches Diskriminierungen aufgrund der Behinderung auch im Schulbereich verbietet. Und Art. 20 BehiG, welcher die Integration in die Regelschule empfiehlt. Falls das Kind aufgrund seiner Behinderung auf sonderpädagogische Maßnahmen angewiesen ist, um einen genügenden Grundschulunterricht zu erhalten, hat es einen Anspruch darauf (auch hier sind die Kantone zuständig. Siehe Art. 62 Abs. 3 BV sowie das voraussichtlich am 1. 1. 2011 in Kraft tretende interkantonale Konkordat im Bereich der Sonderpädagogik; Anmerkung per Juni 2010 sind 10 Kantone dem Konkordat beigetreten).

DE: Jedes Kind hat das Recht; in der Praxis ist es jedoch noch nicht vollständig umgesetzt bzw. auch von der Art der Schule abhängig.

IRL: Education for Persons with Special Educational Needs (EPSEN) Act 2004 states that, except in a couple of particular circumstances, "a child with special educational needs shall be educated in an inclusive environment with children who do not have such needs . . ."

Spain: A child has the right to receive free and compulsory primary education, but the reality is another story.

UK: The Special Educational Needs and Disability Act 2001 (SENDA) sets out entitlement to mainstream education for pupils with special educational needs.

USA/New York State: Under the Individuals with Disabilities Education Act (IDEA), children with disabilities have a right to Individualized Education Plans (IEPs) to ensure they receive proper accommodations to succeed in school with their peers. Under IDEA, children with disabilities must be educated in the Least Restrictive Environment (LRE), and therefore children may not be in the general classroom with their peers at all times.

PERCENTAGE OF INCLUSIVE EDUCATION

27. What is the percentage of children with disabilities who are educated in a mainstream primary school?

RELATES TO UN CONVENTION – ARTICLE NO.

24 Education

BRIEF EXPLANATION OF THE ARTICLE

See Question 25.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

As an additional indicator of the implementation of Article 24 of the UN Convention, this question inquires about the current status of inclusion at the primary school age. This should be viewed as a supplement to Question 25 in particular.

SUMMARY OF RESULTS
















Portugal and the USA are the frontrunners in terms of inclusive education: over 75 percent of the students with disabilities are educated in general primary school classes.

Most NGOs could not provide any information for the question, generally because no such statistics are tracked. Such statistics exist for Canada, but they are not informative since non-integrated classes exist within general primary schools.

Austria as well as Germany lie in the "orange" range since inclusion generally is at least partially realised (see also 121).

The countries of Eastern Europe, on the other hand, still lag behind in this area.

27. PERCENTAGE OF INCLUSIVE EDUCATION

	Austria (AT)	>25%<75%
	Canada (CDN)	n. a.
	Switzerland (CH)	n. a.
	Germany (DE)	>25%<75%
	Denmark (DK)	n. a.
	Hungary (HU)	n. a.
	Ireland (IRL)	n. a.
	Portugal (POR)	≥ 75%
	Romania (ROM)	<25%
	Slovenia (SLO)	<25%
	Spain (SPA)	n. a.
	Sweden (SWE)	n. a.
	Turkey (TR)	<25%
	United Kingdom (UK)	>25%<75%
	USA	≥ 75%

- ≥75%

- >25%<75%

- ≤25% (Or: No figures are available.)

REMARKS

CDN: Children may be included in a mainstream school, but in a separate classroom within the school for some or all of their time at school. (See Question 25.)

ALTERNATIVE TESTING METHODS FOR STUDENTS

28. Do university students with disabilities have the right to alternative testing methods?

RELATES TO UN CONVENTION – ARTICLE NO.

24 Education

BRIEF EXPLANATION OF THE ARTICLE

The right to an inclusive education also includes the right to a university education (and vocational education). In order to realise this right, various preconditions and access options must be established. An earlier committee listed the following "4 As":

- Availability
- Accessibility
- Acceptability
- Adaptability – flexible so as to adapt to the needs of changing societies¹⁾.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The question refers only to university students as a representative group. It asks whether the testing methods utilised are accessible to persons with various types of disabilities and whether alternative testing methods to written and oral tests are offered. For students with learning disabilities, in particular, the sitting of exams could also consist of extensions to the maximum duration of study or exam durations as well as in the evaluation of alternative performance such as participation or homework.




















SUMMARY OF RESULTS

In summary, the results can be interpreted as revealing two camps:

- Many countries have established by law that students with disabilities have the right to alternative testing methods in order to prevent discrimination against them.
- The others offer voluntarily extended exam times or additional, supportive aids.
- No country grants persons with disabilities the fundamental right to take exams in alternative ways.
- The USA appears to be a frontrunner here in terms of the broad range of measures available to students with disabilities; however, this is not enshrined in law (at least in the state of New York). In United Kingdom, the range of rights is also enshrined in law. The university is obligated to issue a Disability Statement describing the measures available.

¹⁾ CESCR, General Comment 13, The right to education, Article 13, para 6.

28. ALTERNATIVE TESTING METHODS FOR STUDENTS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- At all universities, students with disabilities have the right to alternative testing methods.
- At some universities such testing is an option, but not a student's right. Some universities are not able to offer alternative testing even as an option.
- At not one university does a student with disabilities have a right to alternative testing.

REMARKS

CDN: There is still much work to be done to ensure that people with intellectual disabilities are included in post-secondary education.

CH: Art. 8 Abs. 2 Bundesverfassung sowie das BehiG (Art. 2 Abs. 5) verlangen Anpassungen der Prüfungsmethoden an die Bedürfnisse von Menschen mit Behinderung, um Diskriminierungen zu vermeiden.

DE: Für Bayern gilt: je nach Schwere der Behinderung kann eine Verlängerung der Prüfungsdauer um bis zu 50 Prozent gewährt werden. Alternative Prüfungen wie z. B. eine mündliche statt einer schriftlichen Prüfung werden – wenn überhaupt – vom Prüfer festgelegt; ein Recht darauf besteht aber nicht.

DK: Students can have additional time and use their aides, otherwise no adjustments.

IRL: Students are entitled to a reasonable accommodation to sit the same exam as their peers. This accommodation could be longer time, a scribe, assistive technology etc. However, it is not an explicit right – it is arranged by needs assessment.

UK: Universities and Higher Education colleges have an obligation to make provision for disabled students. (Alternative testing methods being included as an example.) They must also produce a Disability Statement showing how they do this.

USA/NY: Under the ADA and the Rehabilitation Act of 1973, qualified students with disabilities are entitled to reasonable accommodations to sit the same exam as their peers.

STATISTICS ON UNIVERSITY GRADUATES

29. Are official statistics published covering the number of persons with disabilities who graduate from university?

RELATES TO UN CONVENTION – ARTICLE NO.

24 Education

BRIEF EXPLANATION OF THE ARTICLE

According to Article 24, persons with disabilities must have equal access to general tertiary education, vocational training, adult education and lifelong learning. Reasonable accommodation must be provided to ensure this. Article 31 also requires that information, statistics and data be collected.

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

From the combination of these two articles, it can be concluded that official statistics must also provide information on the percentage of persons with disabilities among graduates of higher education programmes since this is the only way in which the success of an inclusive education policy can be measured. The definition of a disability plays an important role in this context, but the question was phrased such as to make this irrelevant:

- By asking only whether statistics are available at all
- It is possible to evaluate the successful implementation of an inclusive educational policy by means of long-term analysis regardless of the selected definitions (e.g. self-assessment by the students) as long as these definitions are not changed.

SUMMARY OF RESULTS

The results show that a majority of the countries do not maintain statistics regarding university graduates with disabilities. Only Portugal and United Kingdom have collected data on this demographic.

FURTHER INFORMATION





























United Kingdom collects the data annually on the basis of a student self-assessment (all students, not just graduates): according to the data from the 2008/2009 school year, 67,885 students out of a total of 939,035 indicated that they had one or more disabilities.

(http://www.hesa.ac.uk/index.php/component/option,com_datatables/Itemid,121/task,show_category/catdex,3/#disab). Ten different types of disabilities are tracked in the statistics:

A specific learning difficulty	Blind/partially sighted	Deaf/hearing impairment	Wheelchair user/mobility difficulties	Personal care support	Mental health difficulties	Autistic spectrum disorder	An unseen disability (#6)	Multiple disabilities	Other disability
30415	1485	3425	2520	95	4270	855	10995	6225	7605

http://www.cso.ie/census/census2006_volume_11.htm

29. STATISTICS ON UNIVERSITY GRADUATES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- These figures are published officially annually within the year.
- These figures are published, but maybe not officially, or annually. Or within the year.
- No such statistics are officially published. Or are even available.

REMARKS

AT: (1) Statistik Austria (2) Teil A: Zusatzbericht der Studierenden-Sozialerhebung 2010.

CDN: This information may be collected by a variety of sources including census surveys.

CH: Gemäss einer Nationalfond Studie von Judith Hollenweger, Susan Gürber, Andrea Keck (Menschen mit Behinderungen an Schweizer Hochschulen, Befunde und Empfehlungen, Zürich 2005) sind gut 12% der Studierenden behindert oder chronisch krank. Viele brechen das Studium ab oder wechseln die Studienrichtung.

IRL: The census provides statistics on persons with a disability who attained a third level qualification after completing two or more years of study.

SWE: Statistics do not exist concerning how many people with disabilities engage in or graduated having undertaken higher-level studies.

UK: These statistics are published by the Higher Education Statistics Agency (HESA).

USA/New York State: Many students with invisible disabilities choose not to self-identify at the university level and therefore such statistics would be very inaccurate.

BLIND JUDGES

30. Can blind persons become judges?

RELATES TO UN CONVENTION – ARTICLE NO.

24 Education

BRIEF EXPLANATION OF THE ARTICLE

Article 27 recognises that persons with disabilities have the right to work. All forms of discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions must be prohibited.

The workplace and employment opportunities are two areas in which discrimination against persons with disabilities are particularly persistent (Schulze, p. 102).

BRIEF EXPLANATION OF QUESTION OF THE ARTICLE

The profession of judge was selected here by way of example because it has been associated with blindness for many centuries (in Europe): Justitia, the Roman goddess of justice, decided "without viewing the person" and has for this reason been represented consistently with a blindfold since at least the 16th century. In other words, blind persons are attested – by mythology at least – to be more efficient judges than sighted persons. In order to resolve the foreseeable difficulty in distinguishing between theory and practice, the "green" light requires only that a sitting judge actually exists, while "orange" requires only that no legal impediments exist.































SUMMARY OF RESULTS

The possibility of blind persons becoming judges is enshrined in law in a majority of the countries (or at least not excluded); however, only a third of the countries actually have blind judges. Hungary, Portugal and Turkey do not allow blind persons to become judges.

The legislation in Austria does not establish any basis for exclusion. There have been cases in Austria in recent years in which blind solicitors were refused approval to take the judge's exam. Matters of qualification were not considered here; only the fundamental reservations such as "insufficient suitability" were expressed by the association of Austrian judges and public prosecutors.

A number of blind judges preside in Germany, but they are excluded from criminal cases.

30. BLIND JUDGES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- There exists at least one sitting judge in the state who is blind.
- A blind person can become a judge, but there is not one sitting judge in the state who is blind.
- A blind person is not permitted to become a judge.

REMARKS

AT: (1) Laut Gesetz könnten blinde Menschen den Richterberuf ergreifen. Am 24. Juni 2006 trat das Bundes-Behindertengleichstellungs-Begleitgesetz in Kraft. Im Wesentlichen wurden die diskriminierenden Berufszugangsvoraussetzungen der „körperlichen und geistigen Eignung“ eliminiert. In der Praxis fördert in Österreich das Gesetz die persönliche und fachliche Eignung eines Menschen, um Richter werden zu können. (2) Es gibt regelmäßig Probleme seitens der Richtergewerkschaft. (3) Dr. Paukner (BMJ): „Keine Antwortmöglichkeit zutreffend.“ Es gibt derzeit keinen blinden Richter in Österreich.

DE: In Deutschland gibt es viele blinde Richter und auch Staatsanwälte im Amt, mit Tradition seit dem Zweiten Weltkrieg. Einzig das Strafrecht wurde 1987 vom BGH für blinde Menschen ausgeschlossen.

IRL: A blind person can become a judge, but there is not one sitting judge in the state who is blind.

SLO: Some years ago there was a blind judge, but she could not handle the situation any more so she retired.

SPA: To be a judge the law states that the person has to have the capacity to act as a judge, but it reserves 5% of the places to be covered by people with disabilities.

UK: Featured in an article in "The Independent" on 15/3/00

COVERAGE BY THE STATE OF COSTS OF REHABILITATION

31. In the case of injury caused by an accident, is the coverage of rehabilitation costs paid by the state the same, irrespective of how that accident happened?

RELATES TO UN CONVENTION – ARTICLE NO.:

25 Health

BRIEF EXPLANATION OF THE ARTICLE:

In the context of the rights of persons with disabilities, the right to health is predicated on accessibility, which includes affordability and coverage of costs. Without accessibility any such right is severely compromised. Rehabilitation is a complex process, of which the medical process is only part. Participation and inclusion in the community, together with all aspects of society, are vital for rehabilitation's success.

























BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

In certain countries, differences in coverage may occur if, say, injury is war-related, work-related, traffic-related etc. This may be very disadvantageous for some persons with disabilities. If the state does not pay any rehabilitation costs after accidents (not even war-related) then this question is not applicable.

SUMMARY OF RESULTS:

In five countries, the nature of the accident in no way determines the coverage. In five countries, on the other hand, Canada, Hungary, Romania, Turkey and United States/New York State, the nature of the accident is used to determine the coverage of rehabilitation costs paid by the state. And in a further five, while it may be taken into account, there is a general principle of equal treatment, but with exceptions, including Austria. In Austria there is the unresolved dispute between the AUVA, the social insurance organisation for occupational risks, and other social insurance entities, that, in practice, it also has to cover the rehabilitation costs of accidents that happen in private life, although, by law, it is not obliged to do so.

31. COVERAGE BY THE STATE OF COSTS OF REHABILITATION

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- The nature of the accident in no way determines the coverage of rehabilitation costs paid by the state. Coverage is paid solely on the basis of the injury received.
- How an injury has been sustained is taken into account when coverage of rehabilitation costs is paid by the state. But there is a general principle of equal treatment.
- The nature of the accident only is used to determine the coverage of rehabilitation costs paid by the state.

REMARKS

AT: (1) AUVA: Nach Arbeitsunfällen und Berufskrankheiten erbringt der Unfallversicherungsträger Rehabilitation: medizinisch als Pflichtleistung (Anspruch), beruflich als Pflichtaufgabe (kein Anspruch des Versicherten), sozial als freiwillige Leistung (ebenfalls kein Anspruch des Versicherten). Pensionsversicherung: Zur Vermeidung des Anfalls einer Pension aus dem Versicherungsfall der geminderten Arbeitsfähigkeit oder dauernden Erwerbsunfähigkeit hat der Pensionsversicherungsträger ebenfalls medizinische, berufliche und soziale Maßnahmen der Rehabilitation zu erbringen. (2) ÖAR: AUVA überlegt VfgH-Beschwerde, weil sie de facto zur Bezahlung der Kosten von Freizeitfällen entgegen der Gesetzeslage verpflichtet werde; UnfallKH behandelt, GKK bezahlt und geht zur AUVA, für die das nicht kostendeckend ist.

CDN: Because of a number of different issues, there is wide variation on this issue in Canada. In general, where and how a disability is acquired has a significant impact on both the short- and long-term benefits an individual will receive.

CH: Kürzungen gemäß Art. 36ff. Unfallversicherungsgesetz (UVG, SR 832.20) möglich.

IRL: The state makes both disability benefit and occupational injury payments.

SLO: It depends on the type of insurance. But costs are paid from insurance.

UK: The question is not applicable in the UK as healthcare is free at the point of access, being covered by the National Health Service (NHS). The NHS is funded by National Insurance payments, which are deducted from employers' contributions and employees' salaries.

ACCESSIBILITY OF MEDICAL PRACTICES

32. Are all medical practitioners required by law to ensure that their practices are accessible to those with disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.:

25 Health

BRIEF EXPLANATION OF THE ARTICLE:

In the context of the rights of persons with disabilities, the right to health is predicated on accessibility. Without accessibility any such right is severely compromised. Rehabilitation is a complex process, of which the medical process is only part. Participation and inclusion in the community, together with all aspects of society, are vital for rehabilitation's success.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

Access to a medical practitioner's practice is of vital importance in terms both of the right to health, and of participation and inclusion in the community.



























SUMMARY OF RESULTS:

While in the vast majority of countries, some 13 out of 15, medical practitioners are required by law to ensure that their practices are accessible to persons with disabilities, of these 13 countries, in 70 percent there are either effective qualifications to this requirement, or the criteria used are ineffective.

In the United Kingdom, since 2004, medical practitioners have had to make their premises accessible to persons with disabilities.

In Austria it depends on the state: in some of the nine states the premises have to be barrier-free (new buildings) (see page 111).

32. ACCESSIBILITY OF MEDICAL PRACTICES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All medical practitioners are required to ensure that their practices are accessible to those with disabilities using generally accepted criteria, for example, those of "universal access", by 2015.
- For example, only newly built practices. Or just some medical practitioners have this obligation. Or the criteria are ineffective.
- There is no legal requirement for medical practitioners' practices to be accessible to those with disabilities.

REMARKS

AT: Es gibt nach § 342 Abs 1 Z 9 ASVG eine diesbezügliche Verpflichtung für Gruppenpraxen (mit Kassenvertrag); für alle anderen niedergelassenen Praxen ist dies nicht der Fall. Behindertenbericht 2008, Pg. 239: „Weiters hat die für die Neuvergabe von Kassenplanstellen zu beachtende Reihungskriterien-Verordnung das ernsthafte Bemühen zur Schaffung eines behindertengerechten Zugangs zur Praxis in den Kriterienkatalog aufgenommen.“ OIB-Richtlinie schließt Arztpraxen (bei Neubauten) ein.

CH: Es gelten auf Bundesebene die Regeln, welche im Teil betreffend Zugänglichkeit erwähnt wurden. Es bleibt den Kantonen frei, weitergehende oder spezifischere Regelungen zu erlassen.

IRL: Whilst not covered by specific regulation, medical practitioners are covered by the Equal Status Act 2000, as providers of a service. As such, they must do all that is reasonable to accommodate the needs of a person with a disability. However, they are not obliged to provide special facilities or treatment when this costs more than what is called a nominal cost. What amounts to nominal cost will depend on the circumstances such as the size and resources of the body involved.

POR: In fact, the Portuguese Law No. 163/2006, of August 8, which approves, rules accessibility techniques apply to all public departments and agencies of the government, including hospitals, health centres and medical offices. There is no specific law, but a generally applicable law. Law No. 163/2006, of August 8 applies to all buildings serving the public, including private doctors premises.

UK: Since 2004 all service providers have been required to address physical features of their premises which make access difficult for persons with disabilities (Disability Discrimination Act 1995).

US/New York State: Under the Americans with Disabilities Act, Title III, medical practitioners are required to provide access to people with disabilities through "reasonable modifications", so long as such modifications do not constitute an "undue burden" on their practices. However, even though the law requires access for people with disabilities to medical practices, in New York State there are many instances where such necessary accommodations have not been provided. For instance, people who are blind not receiving medical information in an accessible form prior to consenting to medical procedures, and people who are deaf not being provided sign language interpreters.

ACCESSIBILITY OF PHARMACIES

33. Are all pharmacies required by law to be accessible to those with disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.:

25 Health

BRIEF EXPLANATION OF THE ARTICLE:

In the context of the rights of persons with disabilities, the right to health is predicated on accessibility. Without accessibility any such right is severely compromised. Rehabilitation is a complex process, of which the medical process is only part. Participation and inclusion in the community, together with all aspects of society, are vital for rehabilitation's success.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

Access to pharmacies is of considerable importance in terms both of the right to health, and of participation and inclusion in the community. Accessibility itself is of course also stated in Article 9, so the regulations for any building that is open to the public have to be applied here, but, because of their special importance, pharmacies have been singled out in the questionnaire. It is also comparatively easy for pharmacies to be barrier-free, because they are normally small, and need neither special premises (such as cinemas) nor special locations (such as railway stations).




























SUMMARY OF RESULTS:

In all countries, except one, all pharmacies are required, by law, to be accessible to those with disabilities. And in some six out of 14, the criteria for accessibility are both effective and generally accepted.

In Austria all pharmacies have to be barrier-free by the end of 2010, which would make it a perfect "green" light. But there are still some exceptions, like pharmacies in buildings that are in danger of being flooded, or that are protected as historic monuments.

Germany is the only country that gets a "red" light, since it is the only country where only newly built pharmacies have to be barrier-free.

33. ACCESSIBILITY OF PHARMACIES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All pharmacies are required to ensure that their practices are accessible to those with disabilities using generally accepted criteria, for example, those of "universal access", by 2015.
- For example, only newly built pharmacies need be accessible. Or the criteria for accessibility may not be that effective, for example, there may be elevators in a building, but no ramp to the building's front door.
- There is no legal requirement for pharmacies to be accessible to those with disabilities.

REMARKS

AT: Mag. Prinz, Österr. Apothekenkammer: Es gibt es eine rechtliche Verpflichtung, dass der Verkaufsraum barrierefrei zugänglich sein muss. Das ist in der Apothekenbetriebsordnung festgelegt, darin ist auch ausreichend definiert, in welcher Önorm. Übergangsfrist § 78 Abs. 5 ist heuer im Februar abgelaufen. Nach der Ordnung, haben die Apotheken die Möglichkeit für einen „technisch unvermeidbaren Aufwand“ die Behörde in Kenntnis zu setzen (jahrhundertalte Häuser, Denkmalschutz oder in Gebieten an der Donau wegen Überschwemmungsgefahr). In diesen Fällen ist man um Ersatzlösungen bemüht (z. B. Glocke). Alle neuen Apotheken müssen barrierefrei sein.

CH: Es gelten auf Bundesebene die Regeln, welche im Teil betreffend Zugänglichkeit erwähnt wurden. Es bleibt den Kantonen frei, weitergehende oder spezifischere Regelungen zu erlassen.

IRL: Whilst not covered by specific regulation, pharmacies are also covered by the Equal Status Act 2000, as providers of a service, to do all that is reasonable to accommodate the needs of a person with a disability.

UK: Since 2004 all service providers have been required to address those physical features of their premises that make access difficult for people with disabilities (Disability Discrimination Act 1995).

US/New York State: Under the Americans with Disabilities Act, Title III, pharmacies are also required to provide access to people with disabilities.

RIGHT TO ASSISTANCE IN THE WORKPLACE

34. Does a person with disabilities have the right to assistance in the workplace paid for by the state?

RELATES TO UN CONVENTION – ARTICLE NO.:

27 Work and employment

BRIEF EXPLANATION OF THE ARTICLE:

As with Articles 25 and 26, accessibility is at the heart of Article 27 covering the employment of persons with disabilities. While no specific references are made in the article to the provision of either personal assistance or special equipment, it requires “States Parties” to “(e)nsure that reasonable accommodation is provided to persons with disabilities in the workplace.” In addition, with regard to both work and employment, non-discrimination is also a major issue.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

The issues addressed by this question are that of a state’s obligation to pay for assistance in the workplace and the right of persons with disabilities to such assistance

SUMMARY OF RESULTS:

In very few of the countries – Denmark, Portugal and Sweden – do persons with disabilities have the right to assistance in the workplace paid for by the state. In half the remaining countries, no such right exists.

In Austria, such a system is basically in place, but there is no legal right to it. It is aid that can be granted by the state, but if it is not, you can do nothing about it. This is similar to Ireland or Slovenia.



























In the United States/New York State there is no such financial aid for private companies, and it is a heavily discussed issue.

FURTHER INFORMATION:

<http://www.citizensinformation.ie/categories/employment/employment-and-disability>

<http://www.fas.ie/en/Allowances+and+Grants/default.htm>

34. RIGHT TO ASSISTANCE IN THE WORKPLACE

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- A worker with disabilities has the right to assistance in the workplace paid for by the state.
- A worker with disabilities has the right to assistance only for defined periods. Or the employer is obliged to meet the costs of assistance, etc.
- No such right exists.

REMARKS

AT: Dr. Schmon BSB: PAA kann von Menschen mit Behinderung im erwerbsfähigen Alter in Anspruch genommen, die in der Pflegestufe 5, 6 oder 7 eingestuft sind, die fachliche und persönliche Eignung für den ausgeübten bzw. angestrebten Beruf aufweisen und in einem aufrechten sozialversicherungspflichtigen Dienstverhältnis stehen und mit Hilfe der PAA die Qualität ihrer Arbeitsleistung steigern bzw. einen drohenden Arbeitsplatzverlust vermeiden können oder mit Hilfe der PAA ein in konkrete Aussicht gestelltes sozialversicherungspflichtiges Dienstverhältnis erlangen können oder mit Hilfe der PAA ein Studium oder eine Berufsausbildung in der gesetzlich vorgeschriebenen Dauer zuzüglich der für den Bezug von Studienbeihilfe zulässigen weiteren Semester absolvieren können. Auf die Gewährung einer Förderung besteht kein Rechtsanspruch. Finanzierung durch den Bund.

CDN: The federal government and the provincial/territorial governments have programmes for employment-related training and supports.

IRL: While no actual right exists, there are grants to employers available from state agencies responsible for getting people with disabilities into employment and training.

SLO: We still do not have a law, but in general for some categories of disabled people the costs are covered.

SPA: A worker has the right to assistance in the workplace. The state gives grants to the company for that. (This is not always sufficient.)

UK: This is covered by the Access to Work Scheme. However, in some circumstances the employer must meet a proportion of the costs involved.

US/New York State: Private employers must pay for the reasonable accommodations of their employees with disabilities. This issue is heavily discussed in New York State, and many disability organisations are lobbying to have state agencies provide funds for reasonable accommodations in private workplaces. These organisations argue that making private employers pay for accommodations serves as a deterrent to hire qualified people with disabilities.

STATE EMPLOYMENT OF PERSONS WITH DISABILITIES

35. Is the number of persons with disabilities employed by the state both calculated and published?

RELATES TO UN CONVENTION – ARTICLE NO.:

27 Work and employment

BRIEF EXPLANATION OF THE ARTICLE:

As with Articles 25 and 26, accessibility is at the heart of Article 27 covering the employment of persons with disabilities. While no specific references are made in the article to the provision of either personal assistance or special equipment, it requires "States Parties" to "(e)nsure that reasonable accommodation is provided to persons with disabilities in the workplace." In addition, with regard to both work and employment, non-discrimination is also a major issue.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

This question is only about the availability of these figures, not about the figures and percentages themselves. (Figures provided in this year's survey will be used purely for descriptive, not comparative, purposes.)

SUMMARY OF RESULTS:

Over 70% of surveyed countries calculate and publish a figure for the number of persons with disabilities employed by the state. However, in fewer than half of these countries – Canada, Ireland, Slovenia and United Kingdom – is this figure actually available on an annual basis.

In Austria the figure is published annually by the Republic, but not by all of its nine states

In four countries, such a figure is neither calculated nor published, among them the United States/New York State and Switzerland.

FURTHER INFORMATION:































[http://www.nda.ie/cntmgmtnew.nsf/0/584C604587AEE6BE8025768D00574AFE/\\$File/PartV_FinalEnglish.pdf](http://www.nda.ie/cntmgmtnew.nsf/0/584C604587AEE6BE8025768D00574AFE/$File/PartV_FinalEnglish.pdf)

<http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/584C604587AEE6BE8025768D00574AFE?OpenDocument>

http://www.bmas.de/portal/9054/2006__03__22__bericht__beschaeftigung__behinderter__bund.html

http://www.hrsdc.gc.ca/eng/disability_issues/reports/index.shtml

35. STATE EMPLOYMENT OF PERSONS WITH DISABILITIES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- The figure is published annually in an official publication, together with some description covering in which state bodies these persons are employed.
- Such a figure may be calculated, but is not published. Or it is not an official figure. Or it is only published either irregularly or every, say, five years.
- Such a figure is neither calculated nor published.

REMARKS

AT: Mag. Wirnsberger BMSK: In diesem Zusammenhang muss zwischen den verschiedenen DienstgeberInnen im Bereich des öffentlichen Dienstes unterschieden werden. Daten betreffend Menschen mit Behinderung (begünstigte Behinderte iSd. Behinderteneinstellungsgesetzes), welche beim Bund bzw. bei den Ländern in Beschäftigung stehen, werden grundsätzlich erfasst und regelmäßig in globaler Form veröffentlicht – beispielsweise im Rahmen der Beantwortung parlamentarischer Anfragen. Abschließende Daten hinsichtlich der Gemeinden liegen unserem Haus nicht vor.

CDN: At a federal level this information is published in an annual report on the inclusion of persons with disabilities.

CH: Wird für die Bundesverwaltung angestrebt.

DE: Gem. dem Bundesministerium für Arbeit und Soziales wird die Anzahl von Menschen mit Behinderung, die im öffentlichen Dienst beschäftigt sind, berechnet und publiziert, allerdings nicht jährlich/regelmäßig.

IRL: Under Part 5 of the Disability Act 2005, public sector organisations are obliged to promote and support the employment of people with disabilities, and achieve a statutory minimum 3% target of staff with disabilities.

SWE: These figures are calculated and published only every second year.

UK: While these figures are available in the Labour Force Survey and have been cited in journal articles, a special license is required to access the survey.

NUMBER OF EMPLOYEES WITH DISABILITIES

36. Did the percentage of persons with disabilities employed increase in calendar year 2009?

RELATES TO UN CONVENTION – ARTICLE NO.:

27 Work and employment

BRIEF EXPLANATION OF THE ARTICLE:

As with Articles 25 and 26, accessibility is at the heart of Article 27 covering the employment of persons with disabilities. While no specific references are made in the article to the provision of either personal assistance or special equipment, it requires "States Parties" to "(e)nsure that reasonable accommodation is provided to persons with disabilities in the workplace." In addition, with regard to both work and employment, non-discrimination is also a major issue.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

This question refers to results of disability policies and of Article 27. Since the percentage of employees with disabilities remains below the percentage of other employees in every country of the world, every increase in the percentage can be considered a success.

The question refers only to employment in companies that are required by law to employ persons with disabilities.

The answer is 'no' if no figures are available. Without figures it is impossible to know if people with disabilities are, in fact, being employed as required.

SUMMARY OF RESULTS:















In only three countries, Austria, Hungary and Romania, was there any indication that the percentage of persons with disabilities employed had increased in calendar year 2009. In Hungary this is certainly due to the fact that the fees for non-employment were raised substantially at the end of 2009. In Austria there was a slight rise, of 1.2 percent, so a "green" light was given. But this has also to be seen in the context of the numbers of jobs that should be manned because of legal obligations – this figure rose by 3.8 percent. Of the 12 answers given to this question, six indicated either that the percentage had decreased, or that no figures were available. This can also be attributed to generally rising unemployment in 2009, in the aftermath of the financial crisis.

FURTHER INFORMATION:

<http://www.bls.gov/news.release/empsit.t06.htm>

<http://statistik.arbeitsagentur.de>

36. NUMBER OF EMPLOYEES WITH DISABILITIES

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- The percentage increased. Or the percentage has not increased because all companies required by law to employ persons with disabilities actually do so.
- The percentage remained the same.
- The percentage decreased. Or no figures are available.

REMARKS

AT: BSA Wien und BMSK: Die Zahl der Unternehmen, die Menschen mit Behinderung beschäftigen, ist 2009 leicht gestiegen (1,2%), allerdings sind die Pflichtstellen ebenso um 3,8% angestiegen.

CDN: Based on their disability, there are significant differences in the employment rates for people with disabilities. Increases to employment are, therefore, not reflective of the experience of all people with disabilities.

CH: No official figures.

IRL: No figures are available for 2009.

ROM: Share has increased since tax incentives for companies from the state were given.

UK: No answer given, however, "50% of people with disabilities are in employment, compared with 80% of non-disabled people."

US/New York State: According to the Bureau of Labor Statistics, from May 2009 – May 2010 the number of persons with disabilities who are employed has decreased. <http://www.bls.gov/news.release/empst.t06.htm>

OPPORTUNITIES TO FINISH VOCATIONAL EDUCATION

37. Are there additional opportunities for young persons with disabilities to finish vocational education programmes?

RELATES TO UN CONVENTION – ARTICLE NO.:

27 Work and employment

BRIEF EXPLANATION OF THE ARTICLE:

As with Articles 25 and 26, accessibility is at the heart of Article 27 covering the employment of persons with disabilities. While no specific references are made in the article to the provision of either personal assistance or special equipment, it requires “States Parties” to “(e)nsure that reasonable accommodation is provided to persons with disabilities in the workplace.” In addition, with regard to both work and employment, non-discrimination is also a major issue.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

Some young people with disabilities need more time to learn, or to gain skills, than those without disabilities. Some need alternative training, and education methods, to provide them with the same opportunities to complete a programme successfully or get a certificate, and consequently, also, to have the same opportunity to get a job and lead an independent life.

This question refers not only to the legal situation, but also to practical experience and an assessment of that.

SUMMARY OF RESULTS:

In every country surveyed, that answered the question some sort or another of programme exists that offers young people with disabilities a chance to finish their vocational education.

In the majority of these, eight out of 15, effective programmes are available to all young people with disabilities.

In Austria, the majority of NGOs chose a “green” light, but mentioned also that there are no statistics available covering, for example, how often young migrants use these programmes, as opposed to their use by young persons with disabilities for whom they are designed.

In a recent report of the OECD the Swiss System is described as being very effective, evaluation reports are to be expected in 2010.

FURTHER INFORMATION:































<http://www.studentfinance.ie/pca7575.html>

German Language: <http://www.oecd.org/dataoecd/5/43/42837311.pdf>

English Language: <http://www.oecd.org/dataoecd/36/24/43926141.pdf>

<http://www.fas.ie/en/Equality/Disability/default.htm>

37. OPPORTUNITIES TO FINISH VOCATIONAL EDUCATION

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Effective programmes exist for all young people with disabilities to finish their vocational education.
- Some, but not all, professional students have these options - or just some of them.
- No programmes exist that offer young people with disabilities any chance of finishing their vocational education.

REMARKS

AT: (1) Fr. Dr. Eichinger-Kniely/WKO Lehrlingsausbildung: Integrative Berufsausbildung (IBA) gibt es als Teilqualifizierung und verlängerte Lehre und in ganz Österreich. Möglichkeit besteht für Jugendliche mit körperlicher und geistiger Behinderung. (2) ÖAR: Das gibt es theoretisch, idP sind es aber Kinder mit Migrationshintergrund, die das nützen.

CH: Das BehiG verlangt, dass die Aus- und Weiterbildung von Menschen mit Behinderung an ihre Bedürfnisse angepasst wird (siehe Art. 2 Abs. 5 BehiG). Als Anpassungen gelten zum Beispiel Verlängerung der Ausbildungszeit oder Anpassungen bei den Prüfungen. Diese Pflicht, staatliche Aus- und Weiterbildung an die Bedürfnisse von Menschen mit Behinderung anzupassen, kann auch aus Art. 8 Abs. 2 der Bundesverfassung abgeleitet werden. Im Rahmen der beruflichen Grundbildung gibt es die Möglichkeit einer zweijährigen beruflichen Grundbildung mit eidgenössischem Berufsattest (EBA). Die zweijährigen beruflichen Grundbildungen sind 2004 mit dem neuen Berufsbildungsgesetz (BBG) eingeführt worden.

IRL: There are some additional opportunities for young people with disabilities to finish vocational educational programmes. And funding for further or higher education is available.

SWE: Such options include: extending the length of their vocational education, receiving partial qualifications, access to alternative testing methods, etc.

SPA: No answer given.

UK: Support from the Connexions agency is available for disabled people up to the age of 25. For young people without disabilities this support is available until they are 18. Also Section 6 of the Disability Discrimination Act 1995 requires reasonable adjustments to be made, for example, in such areas as testing methods.

US/New York State: New York state has various vocational rehabilitation agencies that assist in funding and training youth with disabilities in job skills. Amongst the other opportunities these agencies provide is the education of youth with disabilities in self-advocacy skills and assistive technology devices.

RIGHT TO RECEIVE NECESSARY SUPPORT TO VOTE

38. Does a person with disabilities have the right to receive all the necessary support to vote, in secret, in elections for parliament?

RELATES TO UN CONVENTION – ARTICLE NO.:

29 Participation in political and public life

BRIEF EXPLANATION OF THE ARTICLE:

In its two sections, in addition to the principle of accessibility, and the use of “assistive and new technologies”, this article addresses, specifically, both the right to vote, in secret, with assistance from a person of choice, and full and effective general political participation.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

This question is predicated on every voter's inalienable right to vote secretly. The question only refers to parliamentary elections. Some states have either already introduced, or are considering the introduction of, Braille ballots or templates to enable blind people to vote in true secrecy. This was mentioned in the questionnaire, and if some – but not all of them – are used, this would lead to an “orange” light.

SUMMARY OF RESULTS:

All voters with disabilities in six of the countries, in addition to having the right to, actually do receive all necessary support to vote in secret.






























In Canada the right of blind persons to vote secretly is severely breached, similarly in the United States/New York State, due to inaccessible polling stations.

In Austria, the NGOs confirm the “green” light, at least for the general election for the national Parliament.

FURTHER INFORMATION:

http://www.citizensinformation.ie/categories/government-in-ireland/elections-and-referenda/voting/facilities_for_voters_with_disabilities

38. RIGHT TO RECEIVE NECESSARY SUPPORT TO VOTE

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Any voter with a disability receives all necessary support to vote in secret.
- Transport may not be free. Or personal assistance may be limited. Or a Braille ballot or template may not be available. Or a voter may not be able to vote freely or secretly in his or her institution.
- No such right exist. Or, perhaps, a medical practitioner has prevented a person from voting by declaring him or her incompetent.

REMARKS

AT: Mag. Wenda BMI (Wahlen-Bund): „ . . . Dennoch wird im Lichte des 2008 veröffentlichten zweiten Behindertenberichts der Bundesregierung, der eine umfangreiche Dokumentation über die Situation von Menschen mit Behinderungen in Österreich enthält, von einer Beantwortung mit ‚Ja‘ auszugehen sein . . .“

CDN: Blind Canadians are unable to vote in secret.

CH: Das BehiG verlangt, dass staatliche Dienstleistungen für Menschen mit Behinderung zugänglich sind. Darunter fallen insbesondere auch die offiziellen Informationen im Vorfeld von Wahlen und Abstimmungen sowie die Wahlunterlagen.

IRL: There are a variety of arrangements in place to assist those with certain disabilities in Ireland to exercise their voting rights. Such persons can vote at an alternative polling station, if the local station is inaccessible, they may be helped to vote at the polling station by a companion or the presiding officer. They may vote by post, or vote at a hospital, nursing home or similar institution if they live there.

However, a presiding officer may refuse a person with a disability access to vote if that person requires assistance to do so and arrives in the last two hours of voting. This is because the officer may feel it is obstructing other voters from voting. If a presiding officer considers that such a person does not have the capacity to vote, she or he may refuse a person access to vote. There is no law to govern this and no test in place. It is, therefore, at the discretion of the presiding officer.

Braille ballots or templates are not currently available to blind or visually impaired persons who wish to vote in this way.

SWE: Persons with disabilities do have this right in Sweden, however, the Swedish evaluation of the national action plan for disability policy shows, for example, that only 56% of the polling stations are completely accessible. This is despite the fact that Sweden has a law stating that the municipalities must use polling stations that are accessible.

UK: All polling stations must have a tactile voting device and large print version of the ballot paper. People can vote by post or by proxy or with a companion's help. Easy-read information on voting is available from the Electoral Commission.

US/New York State: Although people theoretically have this right, it often does not play out in practice. People who are blind or visually impaired often do not vote in secret due to inaccessible polling stations, or inaccessible ballots.

ACCESSIBILITY OF EXHIBITIONS IN MUSEUMS

39. Are all museums required by law to ensure that their exhibits and/or contents are also accessible to blind persons and persons with hearing disabilities?

RELATES TO UN CONVENTION – ARTICLE NO.:

30 Participation in cultural life, recreation, leisure and sport

BRIEF EXPLANATION OF THE ARTICLE:

Enshrining, as it does, participation in cultural life as a right, the article addresses, at its start, “access to cultural materials in accessible formats” for persons with disabilities. In addition, it is the responsibility of States Parties to ensure that persons with disabilities: “Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national and cultural importance.”

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

This question refers to all museums which are state owned, get state funding or are publicly administered, and to all kinds of disabilities. It also refers to monuments that are accessible to the public.

SUMMARY OF RESULTS:

In four of the countries surveyed, all the state owned, funded or administered museums are legally required, in addition to being fully accessible, to ensure that their exhibits and/or contents are also accessible to blind persons (including their guide dogs) and persons with hearing disabilities: Portugal, Sweden, Switzerland and the United Kingdom.

In five other countries, only some such museums are legally so required or, amongst other things, not all these additional requirements are actually met, or they are on a voluntary, but not legal, basis.































A further six are not subject to any such further requirement, among them Austria and the United States/ New York State, where somehow, surprisingly, art in museums is not accessible to the blind and the deaf.

FURTHER INFORMATION:

In Austria, some museums are mentioned by NGOs which have developed and respected programmes, like the “Belvedere”

<http://www.belvedere.at/jart/prj3/belvedere/main.jart?rel=de&content-id=1172842070196&reserve-mode=active>, the “Technisches Museum” <http://www.tmw.at/default.asp?id=2813&cid=23&al=Deutsch> and “MUSA – Museum on Demand”: <http://www.musa.at/en/about-musa.html>. All three are located in Vienna.

39. ACCESSIBILITY OF EXHIBITIONS IN MUSEUMS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- The law requires all museums and monuments to be fully accessible, it also requires the provision of special guidance to their exhibits and/or contents.
- Only some museums and monuments need fulfill this requirement. Or not all these requirements are met. Or, whilst the requirement is not legal, full (or partial) accessibility is provided anyway.
- No such legal requirement exists.

REMARKS

AT: Dr. Karner BMUKK: Es gibt keine rechtliche Verpflichtung, in Rahmenzielvereinbarung aufgenommen bzw. Hinweis im Vermittlungsprogramm diese Zielgruppe miteinzubeziehen.

CH: Zugänglichkeit: Es gelten die Regeln, welche im Teil betreffend Zugänglichkeit erwähnt wurden. Zudem müssen staatliche Museen dafür sorgen, dass ihre Dienstleistungen auch für Menschen mit Behinderung zugänglich sind (also zum Beispiel auch spezielle Führungen, oder Zulassung von Blindenhunden).

UK: Disability Discrimination Act 1995.

US/New York State: Under Title III of the ADA and New York State's Human Rights Law § 296.2, all places of public accommodations (such as museums) should make reasonable modifications to be accessible to persons with disabilities. As a matter of fact, the contents and exhibits at museums are hardly ever accessible to the blind. Further, most museums do not offer accommodations for audible information for the deaf.

RESERVED AREAS FOR WHEELCHAIRS IN EVENT LOCATIONS

40. Do opera houses, concert halls and sports stadia provide reserved areas for those in wheelchairs?

RELATES TO UN CONVENTION – ARTICLE NO.:

30 Participation in cultural life, recreation, leisure and sport

BRIEF EXPLANATION OF THE ARTICLE:

Enshrining, as it does, participation in cultural life as a right, the article addresses, at its start, “access to cultural materials in accessible formats” for persons with disabilities. In addition, it is the responsibility of State Parties to ensure that persons with disabilities: “Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national and cultural importance.”
























BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

The question seeks to ascertain what, actually, is the case, not what the legal requirements may be, and to take into account that even if there are reserved areas they may still be unsatisfactory. There may be very few places available therein, there may be bad sight lines, or those using them may have to leave behind persons accompanying them.

SUMMARY OF RESULTS:

In three of the 15 countries, such areas are actually provided in all of these: Sweden, Switzerland and the United States/New York State. In all the countries surveyed, some, if not all, opera houses, concert halls and sports stadia provide reserved areas for those in wheelchairs. Whereas in some countries these arrangements have a long tradition, a countrywide ruling for Switzerland has only been in place since 2009. In Austria the NGOs answered that there is gap between practice and theory.

40. RESERVED AREAS FOR WHEELCHAIRS IN EVENT LOCATIONS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All opera houses, concert halls and sports stadia provide reserved areas for those in wheelchairs.
- Only some, but not all, provide such areas.
- None provides any such reserved areas.

REMARKS

AT: Essl Foundation: Bundestheater, zwei Landestheater und zwei Sportstadien. Gespräch Dr. Meierschitz, ÖAR 10. Juni 2010: Gibt es zum Teil, man muss nur a) auf die Qualität der Plätze schauen und b) ob sie von den Begleitpersonen getrennt werden, was dann ja nur das halbe Vergnügen ist. NGOs sagen alle „orange“.

CH: In der Regel haben heutzutage in der Schweiz alle Veranstaltungsorte von der Größe wie Opernhäuser, Konzerthallen, Sportstadien, etc. reservierte Rollstuhlplätze, weil das schon lange von den kantonalen Bauvorschriften verlangt wurde. Die Anzahl, d. h. die Dotierung dürfte allerdings sehr unterschiedlich sein. Meist wahrscheinlich eher im Minimum Bereich. Eine einheitliche Regelung dafür gibt es in der Schweiz erst seit 2009, mit Inkrafttreten der neuen Norm SIA 500, die bald in allen Kantonen verbindlich sein wird.

IRL: Part M of the Building Regulations 2000 provides that if a building contains fixed seating for an audience or spectators, adequate provision must be made for people with disabilities.

ROM: Only a few, and only newly built within the last 3 to 5 years.

STATISTICS ON DISABLED PERSONS LIVING IN INSTITUTIONS

41. Are official statistics published annually covering, at the minimum, the number, age group, sex, and care provided to all those persons with disabilities living in institutions?

RELATES TO UN CONVENTION – ARTICLE NO.:

31 Statistics and data collection

BRIEF EXPLANATION OF THE ARTICLE:

Article 31 explicitly states: "States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention." This is remarkable, since "(t)here is no precedent for such a provision in core human rights treaties" (Schulze), and the creation of tools to assist the assessment of the Convention's implementation is absolutely necessary. Besides data protection, one of the major obstacles to implement fully this article is the lack of commonly used definitions of impairments and disabilities. The risk of an inaccurate picture is high. For example, if the definition of impairment or disabilities is very narrow, this has a significant effect on the outcome. Also, if the recipients of benefits and allowances are counted, those who may not be entitled, or who do not wish to receive such payments out of shame, fear of stigma or other considerations, will not be included in the figure.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

This question refers only to official statistics and only to "institutions". The official figures need to cover all kinds of "institutions" where persons with disabilities live. These include old people's homes, prisons, "asylums for old people and adult invalids", "asylums for children-invalids", "boarding schools for orphans", secure facilities, "centres for placement and rehabilitation", "psychiatric institutions", sheltered accommodation, residential homes, residential educational facilities etc. This question was chosen since "institutions" are the heart of any political decision-making. A lack of reliable or available information on this sensitive issue would be a major obstacle to good governance.































SUMMARY OF RESULTS:

Throughout the survey, there is an astonishing lack of information about persons living in institutions. In not one country could the survey uncover a system and database with current and accurate data that is publicly accessible. As in Austria, in several other countries access to these data, in the words of the Canadian NGO, is "piecemeal at best". Reports are, for example, only produced for a province, for some, but not all, institutions, or are outdated. One exception is the United Kingdom, where the Care Quality Commission (an independent watchdog organization) not only inspects all such institutions under the Care Standards Act 2000, but also writes reports on the number of people in each institution countrywide. Sweden does not have any state run institutions. People can only be deprived of their freedom or liberty either if they have committed a crime, or within the compulsory care system. So they have no statistic material and the question can not be answered. Switzerland undertakes this kind of survey, but only every five years. Data will be available for 2012.

FURTHER INFORMATION:

<http://www.hrb.ie/health-information-in-house-research/disability/>

41. STATISTICS ON DISABLED PERSONS LIVING IN INSTITUTIONS

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- All this information is to be found in a single official publication published on an annual basis and figures are no older than one year.
- Some of these figures are not published. Figures are not published annually, or are over a year old when published. Figures cover only selected institutions.
- No such statistics are officially published.

REMARKS

AT: Mag. Wirnsberger BMSK: Die österreichische Verfassung kennt keinen ausdrücklichen Kompetenztatbestand „Behindertenhilfe“ oder „Behindertenwesen“. Dieser Rechtsbereich stellt eine sogenannte Querschnittsmaterie dar. Daraus folgt, dass die Zuständigkeit zwischen dem Bund und den Bundesländern aufgesplittet ist. Grundsätzlich besteht daher keine einheitliche Erfassung von Daten Menschen mit Behinderung betreffend. Die gewünschten Daten liegen unserem Haus derzeit nicht vor. Diesbezügliche Aufzeichnungen führen allenfalls das Bundesministerium für Justiz (Gefängnisse) oder die Länder.

Canada: Institutions are operated by provincial/territorial governments. There is no comprehensive data collection across the country or even within a province. Access to this information is piecemeal at best.

CH: Auskunftsdienst BFS: Statistik wird alle 5 Jahre auf Basis des SGB erhoben, letzte Erhebung war 2007: 172.218 Menschen leben in Einrichtungen (aufgeteilt in Einrichtungen für Menschen mit Behinderung und Pflege/Altenheime); nächste Erhebung wird im Jahr 2012 gemacht. Erhebung unterscheidet Altersgruppen und Geschlecht.

IRL: Currently information on the numbers of people with a physical or sensory disability accessing residential services in Ireland is available from the National Physical and Sensory Disability Database (NPSDD). Established in 2002, the NPSDD is a tool created by the Health Research Board to determine the specialised health services currently used or needed by people with a physical or sensory disability. The National Intellectual Disability Database (NIDD), also created by the Health Research Board provides similar information for persons with intellectual disabilities. The databases do not however provide information on the circumstances of all of those with physical, sensory or intellectual disabilities in Ireland. Only the circumstances of those who are registered on the databases are reflected. Information on the age groups, sex and types of care accessed by those registered on the databases is published annually.

Further information on the NPSDD and the NIDD can be found on the website of the Health Research Board available at <http://www.hrb.ie/health-information-in-house-research/disability/>

ROM: Stand am 31. 12. 2010 verfügbar.

SWE: Finally, we do not have any state run institutions. People can only be deprived of their freedom or liberty either if they have committed a crime, or within the compulsory care system.

UK: The Care Quality Commission inspects all such institutions under the Care Standards Act 2000. Reports on each institution record the number of people in each institution and the type of institution.

STATISTICS ON EDUCATION AND EMPLOYMENT

42. Are official statistics about the education and employment of persons with disabilities published at least every 10 years?

RELATES TO UN CONVENTION – ARTICLE NO.:

31 Statistics and data collection

BRIEF EXPLANATION OF THE ARTICLE:

See Question 41

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

This question was chosen precisely because a sustainable effort at inclusion has to result in rising percentages of graduates with disabilities and employees with disabilities.

This question refers only to whether such statistics are published or not. And to their quality. It does not refer to what the statistics actually tell us about one state in contrast with another – based on those statistics. I.e. it simply asks whether such statistics are collected and, additionally, if so, what is their quality?

SUMMARY OF RESULTS:

Comparatively, the results regarding available data on education and employment are better than the results covering institutional data. The regular censuses in several countries include significant data on these issues, especially in Ireland, the United Kingdom and the United States/New York State.

In Austria the different definitions used in different laws make the data an unreliable base for “evidence-based decision-making”.

FURTHER INFORMATION:
























<http://www.census.gov/hhes/www/disability/disability.html>

<http://www.cso.ie/releasespublications/nationaldisabilitysurvey06vol2.htm>

<http://disabilitycompendium.org/>

<http://www.ilr.cornell.edu/edi/disabilitystatistics/reports/acs.cfm>

42. STATISTICS ON EDUCATION AND EMPLOYMENT

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- In the last 10 years, at least one official study has been undertaken and the results published that provides a clear picture of the education and employment of persons with disabilities.
- Only certain figures are available. Or figures are older than 10 years. Or figures are open to interpretation.
- No such official study has ever been undertaken.

REMARKS

AT: Insbesondere durch die unterschiedliche Definition von Behinderung beim BASB und beim AMS gibt es extrem unterschiedliche Zahlen, die wenig Aussagekraft haben. Fr. Leitner, Statistik Austria: Der Mikrozensus 2002 gibt kein klares Bild als Antwort.

CH: Es besteht zurzeit keine offizielle Statistik, welche Auskunft gibt über die Ausbildung und die Beschäftigung aller Menschen mit Behinderung. Was es gibt, sind gewisse Zahlen zu Personen, welche eine IV-Leistung beziehen.

IRL: (1) The results of the National Disability Survey undertaken in 2006 were published in two volumes in 2008 and 2010. The published results include statistics on, among other things, the education, employment and training, social participation and access to the built environment of persons with disabilities in Ireland. Further information on the National Disability Survey can be found on the Central Statistics Office website at <http://www.cso.ie/releasespublications/nationaldisabilitysurvey06vol2.htm>

(2) In addition, the census gathers data on people with disabilities in employment.

UK: The quarterly Labour Force Survey covers the employment of people with disabilities. The analysis of children with special educational needs records attainment, absence and exclusion rates for this group. The next publication date is October 2010.

US/New York State: The Rehabilitation Research and Training Center on Disability Statistics and Demographics (StatsRRTC) facilitates evidence-based decision making in many different service and policy arenas to benefit persons with disabilities, leading to improved social outcomes, and it produces an annual report. <http://disabilitycompendium.org/>. The American Community Survey also provides disability statistics regarding employment and education. <http://www.ilr.cornell.edu/edi/disabilitystatistics/reports/acs.cfm>. The U.Pg. Census Bureau also publishes related statistics. <http://www.census.gov/hhes/www/disability/disability.html>

STATE SPONSORSHIP OF UMBRELLA ORGANISATION

43. Is there an umbrella organisation representing, at minimum, 50 percent of all those associations for persons with disabilities, that receives directly basic state funding?

RELATES TO UN CONVENTION – ARTICLE NO.:

32 International cooperation

BRIEF EXPLANATION OF THE ARTICLE:

The Convention requires all states to “undertake appropriate and effective measures” to cooperate internationally, and “as appropriate, in partnership with relevant international and regional organisations and civil society, in particular organisations of persons with disabilities”.

Measures will include through facilitating and supporting capacity-building by, for example, the exchange and sharing of experience, information and good practices. Or, for instance, through the provision of technical and economic assistance.

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

International cooperation, lobbying and representation can be at its best when there is a well-equipped umbrella organization that represents as many NGOs at possible.

SUMMARY OF RESULTS:

Among the countries surveyed, only in Canada, Portugal and the United States/New York State does no such organisation exist. Of the remaining 11 countries for which there were responses, in seven such an organisation exists, represents over 50 percent of all those associations for persons with disabilities, and receives basic state funding directly. In four such an organisation exists, but it may either not receive state funding, for example, RADAR in the United Kingdom is a charity, or it may not represent over 50 percent of all those associations for persons with disabilities.

FURTHER INFORMATION:

www.bagfw.de



























http://www.mddsz.gov.si/si/delovna_podrocja/invalidi/svet_vlade_rs_za_invalide/Dachorganisation%20hei%20%20Urad%20vlade%20RS%20za%20invalide%20in%20bolnike

www.oea.or.at

<http://www.integrationhandicap.ch/index/menuid/13>

<http://www.pwdi.ie/>

43. STATE SPONSORSHIP OF UMBRELLA ORGANISATION

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- Such an organisation exists, represents over 50% of all those associations for persons with disabilities and receives directly basic state funding.
- Such an organisation exists, but may not either represent over 50% of all those associations for persons with disabilities, or does not receive directly basic state funding.
- No such organisation exists that represents over 50%, and that receives directly basic state funding.

REMARKS

AT: Gespräch Dr. Meierschitz ÖAR: Finanzierung gibt es, wurde aber heuer um 10% gekürzt (und keine Chance auf Zusatzsponsoren), sehr geringe Kapazitäten, im wesentlichen Präsident (Koordination von 78 Mitgliedsbetrieben) und 3 Fachkräfte (Recht, Barrierefreiheit, öff. Arbeit); in NL zum Vergleich gibt es 70 Mitarbeiter.

DE: Es gibt mehrere Dachorganisationen, siehe www.bagfw.de

CH: Die DOK (Dachorganisationenkonferenz der privaten Behindertenhilfe) ist der Zusammenschluss aller wesentlichen Organisationen der privaten Behindertenhilfe und -selbsthilfe in Form einer einfachen Gesellschaft. Sie wird von einem Büro geleitet: <http://www.integrationhandicap.ch/index/menueid/13>. Als solche bekommt sie keine Subventionen, aber die einzelnen Mitglieder schon.

IRL: In Ireland, the organisation is People with Disabilities in Ireland. The organisation receives 100 percent of its funding from the State. The actual amount provided depends on the activities of the organisation.

SLO: http://www.mddsz.gov.si/si/delovna_podrocja/invalidi/svet_vlade_rs_za_invalide/Dachorganisation heißt: Urad vlade RS za invalide in bolnike

UK: In the UK the umbrella organisation is RADAR – Royal Association for Disability and Rehabilitation. This is a charity and is not government-funded.

DESIGNATION OF "FOCAL POINTS" WITHIN GOVERNMENT

44. If the state has signed, or ratified, the Convention, has it designated "focal points" within government to address matters relating to the Convention's implementation?

RELATES TO UN CONVENTION – ARTICLE NO.:

33 National implementation and monitoring

BRIEF EXPLANATION OF THE ARTICLE:

The article envisages that within each State Party there will be three different bodies to implement and monitor the Convention: "focal points" within government, a coordination mechanism within government and an independent mechanism based on Paris Principles. This is a unique provision, vis-à-vis implementation, in such a treaty.

With regard to "focal points" in particular, they require that "every State Party's administration shall include a body that sees to the legal and practical implementation of the Convention's rights" (Schulze).

The article also requires that: "Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process."

BRIEF EXPLANATION OF THE QUESTION RELATING TO THE ARTICLE:

For those states that have ratified the Convention, in line with Article 33, Paragraph 1, "States Parties" need to designate one or more "focal points" within government "for matters relating to the implementation" of the Convention. In addition, in line with the other two paragraphs in this article, there need not only to be "independent mechanisms" to "promote, protect and monitor" its implementation, but "civil society" also needs to be involved and participate "fully" in the monitoring process.

SUMMARY OF RESULTS:

In three countries that have ratified the Convention, there are "focal points", they are effective and civil society is fully involved: Portugal, Sweden and the United Kingdom.































Denmark is the only country surveyed that has both ratified the Convention and not yet designated one "focal point" within government for such matters.

In the remaining seven countries that have ratified the Convention, there may be "focal points", but, for example, civil society may not yet participate "fully" in monitoring the state's implementation of the Convention, among them Austria (see page 127 for explanation).

FURTHER INFORMATION:

<http://www.inklusion-online.net/index.php/inklusion/article/view/52/56>

44. DESIGNATION OF "FOCAL POINTS" WITHIN GOVERNMENT

	Austria (AT)	
	Canada (CDN)	
	Switzerland (CH)	
	Germany (DE)	
	Denmark (DK)	
	Hungary (HU)	
	Ireland (IRL)	
	Portugal (POR)	
	Romania (ROM)	
	Slovenia (SLO)	
	Spain (SPA)	
	Sweden (SWE)	
	Turkey (TR)	
	United Kingdom (UK)	
	USA	

- There are "focal points", they are effective and civil society is fully involved.
- There are "focal points", but, e.g., civil society does not participate "fully" in monitoring the state's implementation of the Convention.
- State parties have not yet designated one "focal point" within government for such matters. (Or: State has not signed the Convention).

REMARKS

AT: Dr. Isler, BMSK: Die „Focal Points“ (Anlaufstellen) im Sinne des Abs. 1 für den Bundesbereich sind das BMASK sowie die 9 Landesstellen des ressortzugehörigen Bundessozialamts. „Focal points“ für den Bereich der Zuständigkeit der Länder sind meines Wissens bis dato nicht benannt. Der coordination mechanism (Koordinierungsmechanismus) im Sinne des Abs. 1 ist in Wahrnehmung seiner Koordinierungskompetenz in Bundesangelegenheiten von Menschen mit Behinderungen beim BMASK unter Einbeziehung des Bundesbehindertenbeirats angesiedelt. Der independent mechanism (unabhängige Mechanismus) zu Förderung, Schutz und Überwachung der Durchführung der Konvention ist für den Bundesbereich der Unabhängige Monitoringausschuss (§ 13 BBG). Das Land Kärnten hat im Chancengleichheitsgesetz einen Mechanismus benannt, durch die anderen Länder sind mir keine Benennungen bekannt. (2) Mag. Schulze bestätigt Wiener Vorhaben, aber nicht Salzburg und Tirol.

CDN: Canada has only recently ratified the Convention. Efforts to designate a "focal point" and to determine most effective ways for engagement with civil society have been ongoing. Currently, our Federal Office for Disability Issues is designated as the "focal point".

DE: Nur in Hamburg (<http://www.inklusion-online.net/index.php/inklusion/article/view/52/56>)

UK: The Office for Disability Issues coordinates implementation across government departments and invites consultation with the public and with disability groups.

COMPARISON OF
18 INDICATORS
WITHIN THE AUSTRIAN
FEDERAL PROVINCES

TRAINING FOR ARCHITECTS COVERING ACCESSIBILITY

5. Are architects obliged to receive training covering accessibility for persons with disabilities?

SUMMARY OF RESULTS

There is not a single university in Austria that offers a required course on the topic of "accessibility in architecture" within its architecture programme, and there is also no comprehensive selection of elective courses on this topic. Electives on this topic are only offered at the Graz University of Technology, the Vienna University of Technology and the University of Applied Sciences in Spittal an der Drau. The "inverse" approach at the University of Klagenfurt is interesting in that a course on "Universal Design" is offered within the field of social and integrative pedagogy.

ADDITIONAL INFORMATION

In order to comply with a resolution of the European Council from 2001 (Resolution ResAP[2001]), material pertaining to accessibility in planning and building must be taught in all educational tracks for pertinent professions (architects, master builders, installation technicians, etc.). NGOs and affected persons consistently note that installation technicians, as well as tile-layers, floor-installers and appliance manufacturers, etc., are tasked as part of their typical daily work with ensuring accessibility for persons with disabilities inside their own homes.










FURTHER INFORMATION

https://online.tu-graz.ac.at/tug_online/lv.person_liste?cperson_nr=42228

<https://tiss.tuwien.ac.at/course/courseList.xhtml?windowId=a13>

<https://campus.uni-klu.ac.at/index/sucheusfuehren.jsp>

http://www.fh-kaernten.at/ma-neu/vorl.php?per_oid=-102500000000005823

	Burgenland (BGL)	<input type="radio"/>	<ul style="list-style-type: none"> • As part of both their architectural education and professional training, architects are obliged to take courses covering design for persons with disabilities, for example, barrier free buildings and accessibility to persons with disabilities. • Courses covering design for persons with disabilities, for example, barrier free buildings, accessibility to persons with disabilities, are optional, but not obligatory. Or lack depth. Or are only compulsory for some architects. • No courses covering design for persons with disabilities, for example, barrier-free buildings, accessibility to those persons with disabilities, are either obligatory or even optional.
	Carinthia (CTA)	<input checked="" type="radio"/>	
	Lower Austria (LA)	<input type="radio"/>	
	Upper Austria (UA)	<input checked="" type="radio"/>	
	Salzburg (SBG)	<input type="radio"/>	
	Styria (ST)	<input checked="" type="radio"/>	
	Tyrol (T)	<input checked="" type="radio"/>	
	Vorarlberg (VBG)	<input type="radio"/>	
	Vienna (VA)	<input checked="" type="radio"/>	

REMARKS

ST: Mag. Blaha, Referent für barrierefreies Bauen, Amt der Steiermärkischen Landesregierung verweist auf Herrn Oskar Kalamidas, der in der Grazer Stadtbauamtsdirektion arbeitet und an der TU Graz, Fakultät Architektur, barrierefreies Bauen als Wahlfach lehrt.

VA: Hr. Kreuzeder (PR), TU Wien: Es gibt Wahlfächer zur Barrierefreiheit, Bestandteil von Pflichtfächern, wie z. B. Baurecht oder Entwerfen.

ACCESSIBILITY OF NEWLY CONSTRUCTED PUBLIC BUILDINGS

6. Are all newly constructed buildings to which there is public access required by law to be accessible?

SUMMARY OF RESULTS

Guideline 4 of the Austrian Institute of Construction Engineering (OIB) is an important step toward establishing harmonised, universally accessible building ordinances. This guideline is also on the current government agenda and should be implemented by 2012. For this reason, implementation of Guideline 4 "Ensuring Usability and Universal Access" was selected, in particular, as a criterion for assigning the light colour. Fewer than half of the provinces have already passed OIB Guideline 4 on "Ensuring Usability and Universal Access" and integrated it in their respective building ordinances. Vienna, Burgenland, Upper Austria, Tyrol and Vorarlberg have already implemented it. The guideline is currently in an evaluation phase in Carinthia and Styria. No detailed information on when implementation will take place was provided by the provinces of Salzburg and Lower Austria.

ADDITIONAL INFORMATION

In general, the building ordinances of the nine provinces contain provisions on universal access for new buildings and for additions and alterations requiring approval. In all cases in which no separate approval is required for alterations, no universal accessibility measures are required either.



















FURTHER INFORMATION

<http://www.oib.or.at>

www.prohandicap.at

www.designforall.at

BARRIERE:FREI! - Handbuch für barrierefreies Wohnen; BMSK;

	Burgenland (BGL)		<ul style="list-style-type: none"> • Legislation is in place and covers both all newly constructed buildings to which there is public access and covers all disabilities. • There is legislation only for certain newly constructed buildings. Or accessible only to persons with certain disabilities, etc. • There is no such legislation.
	Carinthia (CTA)		
	Lower Austria (LA)		
	Upper Austria (UA)		
	Salzburg (SBG)		
	Styria (ST)		
	Tyrol (T)		
	Vorarlberg (VBG)		
	Vienna (VA)		

REMARKS

T: Fr. Dr. Gstir, Lreg.: Einerseits Bundesgleichstellungsgesetz für Bundesgebäude, andererseits im Tiroler Antidiskriminierungsgesetz Regelung für Gebäude der Land und Gemeinden (LB 25/2005 Fassung 41/2008); Neubauten sind in der Bautechnikverordnung LGB 93/2007, § 30/3 und ab 1. 1. 2008 beschrieben, wie barrierefrei errichtet werden soll. § 35 speziell die OIB Richtlinie 4 (außer Aufzugspflicht, die ist im § 24).

ACCESSIBILITY OF EXISTING PUBLIC BUILDINGS










8. Is there a legal time frame for all existing buildings to which there is public access to be made accessible to persons with disabilities? If 'yes', by when?

SUMMARY OF RESULTS

The Equal Opportunities for Disabled Persons Act applies throughout all of Austria and stipulates a transition deadline of 31 December 2015. No provinces have established different (earlier) deadlines for existing buildings in their building ordinances, although some do make reference to the time frame specified in the aforementioned act.

ADDITIONAL INFORMATION

Independent of this, the province of Styria issued a declaration of intent in 2003 to ensure universal accessibility in all administrative buildings by 2010. When the research for this study was completed in August 2010, however, this had not yet been achieved. Article 10 of the new Anti-Discrimination Act of Vienna states that the city of Vienna, upon consultation with the ÖAR, must issue a staged plan by 30 June 2012 for the elimination of physical barriers in the buildings used by the city. Austria receives a "green" light in international comparison due to the federal law.

	Burgenland (BGL)	●	<ul style="list-style-type: none"> ● All existing buildings to which there is public access are, without exception, required, by law, to be fully accessible to those with disabilities by 2015 - at the latest. ● Not all buildings are included. Or the law may only apply to the courts or public administration buildings. Or the law covers only certain disabilities. ● There is no such legislation.
	Carinthia (CTA)	●	
	Lower Austria (LA)	●	
	Upper Austria (UA)	●	
	Salzburg (SBG)	●	
	Styria (ST)	●	
	Tyrol (T)	●	
	Vorarlberg (VBG)	●	
	Vienna (VA)	●	

REMARKS

BGL: Hr. Dr. Hochwarter, Lreg.: Keine Stichtagsregelung, Frist ergibt sich aus Behindertengleichstellungsfrist.

CTA: Fr. Mag. Köffler, Lreg.: Es ist in der Kärntner Bauordnung 1996 bzw. in den Kärntner Bauvorschriften 1985 kein Zeitrahmen festgelegt, bis wann ein öffentlich zugängliches Gebäude barrierefrei sein muss.

LA: Hr. Dipl.-Ing. Harm, Lreg.: ist keine Frist bekannt.

UA: Hr. Dipl.-Ing. Penninger, Lreg.: Übergangsregelung oder Anpassungsverpflichtungen für Baubestände (die baulich nicht verändert werden) gibt es nicht!

SBG: Hr. Dr. Zraunig, Lreg.: Es gibt keinen Zeitraum im Gesetz.

ST: Hr. Mag. Blaha, Lreg: Bundesbehindertengleichstellungsgesetz kommt ebenfalls zur Anwendung; Schlichtungsverfahren möglich aber selten.

T: Fr. Dr. Gstir, Lreg.: Bundesgesetz mit Frist 31. 12. 2015; Landesgesetz keine Übergangsfrist definiert.

VBG: Fr. DI Rhomberg, Lreg.: Es werden freiwillige Adaptierungen vorgenommen, laut § 34 Bautechnikverordnung.

VA: Fr. Girgore, Stadt Wien: Bezug auf Behindertengleichstellungsgesetz mit Frist bis 31. 12. 2015.

ACCESSIBILITY OF PUBLIC BUSES

9. Are all public buses in the state's capital accessible to persons with disabilities?

SUMMARY OF RESULTS

Most bus line operators are successively equipping their bus systems toward the goal of accessibility for wheelchair users. However, this is taking place at various paces and a clear time frame is not always established by which all line buses must be accessible. The awareness on the part of the line operators that the bus drivers also require special training in how to handle persons with mental disabilities also varies greatly. In Linz, for example, this has been criticized by the NGOs and even admitted by Linz AG.

ADDITIONAL INFORMATION

Multiple transportation companies did not respond to this question despite being asked several times. In addition, no evaluations by NGOs were provided for Klagenfurt and Bregenz.

The city of Eisenstadt – as the smallest provincial capital with roughly 13,000 residents – does not operate a large bus system.

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	Salzburg (SBG)	<input checked="" type="radio"/>
	Styria (ST)	<input checked="" type="radio"/>
	Tyrol (T)	<input checked="" type="radio"/>
	Vorarlberg (VBG)	<input type="radio"/>
	Vienna (VA)	<input checked="" type="radio"/>

- All such public buses are accessible to all those with disabilities. In particular, drivers are trained and each bus can carry two (2) wheelchairs.
- Some buses cannot carry two (2) wheelchairs, or some buses are not accessible to all those with disabilities, or drivers are not trained.
- None of the state capital's buses is accessible to those with disabilities.

REMARKS

VA: (1) nur für gehbeeinträchtigte Menschen ist die Umstellung der Linienbusse weit fortgeschritten, wenn auch noch nicht flächendeckend (Niederflureinstiege, Aufzüge in größeren Stationen). Von einer flächendeckenden Schulung des Fahrdienstpersonals ist nichts bekannt bzw. nichts in der Praxis zu bemerken. Neben Gehbeeinträchtigungen werden auch Sehbeeinträchtigungen in größerem Maße berücksichtigt (taktile Bodenleitsysteme, Lautsprecheransagen „Nächster Ausstieg links“). Menschen mit intellektuellen Beeinträchtigungen können ohne Begleitung die öffentlichen Verkehrsmittel nur unzureichend benutzen: Fahrpläne in den Haltestellen und Informationssysteme innerhalb der Busse sind zu kompliziert. Fahrscheinautomaten sind für die meisten Kunden (auch ohne Behinderung!) zu kompliziert. (2) Wiener Linien Hr. Krpata: „Alle Busse der Wiener Linien sind mit einer Klapprampe ausgestattet und somit barrierefrei zugänglich. Die Bedienung der Rampe erfolgt durch den Fahrer. Eine Schulung des Personals findet ebenfalls statt. 2 Stellplätze sind allerdings nicht vorhanden. Wir müssen letztlich auch Platz für Kinderwägen frei lassen. Außerdem betreiben wir auch Minibusse im innerstädtischen Raum.“

UA: Linz AG: Nur geschult in Unterstützung bei Rollstuhlfahrern, wenn Begleitperson nicht dabei.

ST: Graz AG: Geschult in Unterstützung von Rollstuhlfahrern und Sehbehinderten. Bei „Auffälligkeiten“ sollen Fahrer Hilfestellung geben.

ACCESSIBILITY OF RAILWAY PLATFORMS

10. Are the platforms in the main railway stations of the state's capital accessible?










SUMMARY OF RESULTS

The ÖBB have already made the train stations in four provincial capitals universally accessible (Klagenfurt, Linz, Innsbruck, St.Pölten) and are in the process of making all others (with the exception of Eisenstadt) accessible during the course of general alterations.

One NGO noted that, even after the changes, the train stations are still not conceived for independent use by persons with mental disabilities.

ADDITIONAL INFORMATION

The current situation in Vienna is difficult due to simultaneous work being performed at almost all major train stations, although Wien-Meidling as substitute for the South Train Station is now accessible.

 Burgenland (BGL)	●	<ul style="list-style-type: none"> ● All the platforms of the capital's main railway stations are accessible, not only just to those in wheelchairs, but also to the blind. ● Only some platforms are accessible. ● Personal assistance is needed to reach every platform. I.e. there are steps, or no moving walkways, ramps or accessible elevators.
 Carinthia (CTA)	●	
 Lower Austria (LA)	●	
 Upper Austria (UA)	●	
 Salzburg (SBG)	●	
 Styria (ST)	●	
 Tyrol (T)	●	
 Vorarlberg (VBG)	●	
 Vienna (VA)	●	

REMARKS

BGL/Eisenstadt: Nicht barrierefrei, da lt. Auskunft ÖBB der Umbau noch nicht begonnen wurde.

LA/St. Pölten: Barrierefreier Bahnhof.

UA/Linz: Nach übereinstimmender Meinung aller NGOs barrierefrei.

SBG: Hauptbahnhof ist derzeit im Umbau.

ST/Graz: Wird laut Auskunft der ÖBB barrierefrei umgebaut, was das Blindenleitsystem, die Wartebereiche und die Bahnsteighöhe angeht.

T/Innsbruck: laut Auskunft der ÖBB (und auch nach einer NGO) 100-prozentig barrierefrei, Kritik allerdings durch eine zweite NGO.

VBG/Bregenz: Wird laut Auskunft der ÖBB durch ein Blindenleitsystem ergänzt.

VA: (1) Wien-Meidling (als Ersatz für den Südbahnhof) ist nach einem Lokalausweis einer NGO barrierefrei, alle anderen größeren Bahnhöfe (Wien-Süd, Wien-West, Zentralbahnhof, Wien-Mitte) sind derzeit im Umbau, was als Gesamtsituation derzeit für viele Probleme für MmB sorgt.

(2) Nicht für eine selbstständige Nutzung durch Menschen mit intellektuellen Beeinträchtigungen. Derzeit werden die beiden Hauptbahnhöfe in Wien komplett umgebaut, wodurch von Barrierefreiheit für alle Kunden nicht gesprochen werden kann!

RIGHT TO PERSONAL ASSISTANCE

18. Is the personal assistance necessary to support living and inclusion in the community available, by law, to all persons with disabilities?

SUMMARY OF RESULTS

No nationwide laws exist regulating needs-based personal assistance in Austria. This lies within the purview of the individual provinces and is regulated within provincial legislation. These services are offered and taken advantage of in all provinces. They differ generally in the types of disability for which assistance is available and in the financing modalities, such as hourly assistance allowance or a deductible, calculated based on the level of care, income, etc. Burgenland does not have a separate law regarding personal assistance, but this is included within the Social Welfare Act.

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	Vorarlberg (VBG)	
	Vienna (VA)	

- A law, or laws, exist that ensure that all persons with disabilities have access to such personal assistance.
- Such a law, or laws, do exist, but either do not provide all the personal assistance necessary, or only to certain persons with disabilities.
- No such laws exist.

REMARKS

BGL: Fr. Mag. Erd, Lreg. Abteilung Soziales: Kein Gesetz, weil keine Nachfrage. (2) Fr. Schachinger, WAG: Selbstverständlich gibt es auch im Burgenland, wie überall sonst, Bedarf an persönlicher Assistenz. Einige BurgenländerInnen nehmen die persönliche Assistenz in Anspruch. Diese wird vom Land Burgenland finanziert und von den behinderten Menschen im ArbeitgeberInnenmodell organisiert.

CTA: Fr. Mag. Graimann, Lreg.: Mit dem neuen Kärntner Chancengleichheitsgesetz werden Menschen mit körperlicher oder geistiger Beeinträchtigung, die im Bezug des Pflegegeldes stehen, im Rahmen der Privatrechtsverwaltung Assistenzleistungen angeboten.

LA: Fr. LR Mag. Mikl-Leitner, Lreg: § 34 NÖ Sozialhilfegesetz 2000, ÖGBI. 9200; einkommensunabhängig gewährt, Zielgruppe: Körperbehinderung, Volljährigkeit, ab Pflegestufe 5, in eigener Wohnung oder WG lebend; kein Angebot für intellektueller Beeinträchtigung. Zuschuss dzt.: € 20,50 pro Ass.-Std.

UA: „Persönliche Assistenz GmbH“, Hr. Mag. Breitfuss: Es gibt das Oö. Chancengleichheitsgesetz, in dem die persönliche Assistenz geregelt ist. Darin steht auch, dass es darauf sogar einen Rechtsanspruch gäbe. Leider steht aber auch in diesem Gesetz, dass es sie nur nach Maßgabe der finanziellen Mittel gilt.

ST: Fr. Schwaiger, Lreg, Abt Soziales: StBHG, LGBl. Nr. 26/2004 in der Fassung 5.2010 §4: Nicht wirklich eine Gesetzesgrundlage (in der Familienentlastung und Freizeitgestaltung), aber Leistungsbeschreibung vorhanden.

T: Keine Rückmeldung Landesregierung. Mag. Zengin, „Selbstbestimmt leben“: Im Tiroler Rehabilitationsgesetz (§ 83) geregelt.

VBG: Keine Rückmeldung Landesregierung. Fr. Nitz von „Reiz“: Im Chancengesetz §12 kommt pers. Assistenz vor, aber nicht klar ausformuliert.

VA: Fr. Prenner-Kaspar, Fonds Soziales Wien: Bis jetzt kein Gesetz für persönliche Assistenz, ab Herbst Grundlage geschaffen. Fr. Schachinger, WAG: Persönliche Assistenz im Rahmen der sogn. Pflegegeldergänzungsleistung. (2) Das Wiener Chancengleichheitsgesetz (im Juni 2010 beschlossen) sieht im §14 persönliche Assistenz derzeit nur für Personen mit hoher PflegegeldEinstufung vor.

FINANCIAL SUPPORT FOR PERSONAL ASSISTANCE

19. Are all persons with disabilities legally entitled to the full financial support needed to provide the personal assistance necessary to support their living and inclusion in the community?

SUMMARY OF RESULTS

Within Austria, there is no universal legal entitlement to the financial support needed to afford the personal assistance necessary to support an independent lifestyle. This is regulated differently within the individual provincial legislation. Upper Austria does provide a legal entitlement within its provincial laws, however the "maximum extent of personal assistance and the duration for which it can be taken advantage of can be determined through ordinances issued by the provincial government."

Subsidies are available in all provinces under certain conditions; however, they are limited in most provinces to adults with a physical or sensory disability who work and maintain their own household.

In particular, the financing of personal assistance is not offered by these laws to persons with learning disabilities or intellectual impairments. The exceptions here are Carinthia, Tyrol and Upper Austria, where persons with mental illness or mental disabilities can also take advantage of the personal assistance.

	Burgenland (BGL)	●
	Carinthia (CTA)	●
	Lower Austria (LA)	●
	Upper Austria (UA)	●
	Salzburg (SBG)	●
	Styria (ST)	●
	Tyrol (T)	●
	Vorarlberg (VBG)	●
	Vienna (VA)	●

- All persons with disabilities are legally entitled to receive the full financial support needed to provide the personal assistance necessary to support their living and inclusion in the community.
- Such financial support, although mandated by law, is either not available to all or is limited in extent.
- No person with disabilities is legally entitled to any such financial support.

REMARKS

CTA: Mag. Graimann, Lreg.: Die Assistenzleistungen werden im Rahmen der Privatrechtsverwaltung angeboten, jedoch gilt dies für Menschen mit körperlicher oder geistiger Beeinträchtigung, die im Bezug des Pflegegeldes stehen. Es ist ein bestimmtes Stundenkontingent vorgesehen. Weiters haben die Menschen mit Behinderung entsprechend ihren Einkommensverhältnissen einen Selbstbehalt zu leisten. Informationsblatt BASIS: Anspruch haben körper- und/oder sinnesbeeinträchtigte Menschen über 18 Jahre, die Pflegegeld beziehen.

UA: Keine Rückmeldung der Landesregierung; Mag. Breitfuss (Persönliche Assistenz GmbH): Es gibt das Oö. Chancengleichheitsgesetz, in dem die persönliche Assistenz geregelt ist. Darin steht auch, dass es darauf sogar einen Rechtsanspruch gäbe. Leider steht aber auch in diesem Gesetz, dass es nur nach Maßgabe der finanziellen Mittel gilt. Also kommt nur ein (kleiner) Teil der betroffenen Menschen zum Zug. Persönliche Assistenz ist außerdem im Ausmaß von 250 Stunden pro Monat begrenzt. Manche Menschen mit Beeinträchtigung haben aber einen höheren Bedarf. Insofern kann man auch diesbezüglich nicht von „bedarfsgerecht“ sprechen.

VA: Fr. Prenner-Kasper, FSW: Ab Herbst Grundlage geschaffen, in welcher persönliche Assistenz für bestimmte Personengruppen verankert sein wird. Fr. Schachinger: Kein Rechtsanspruch: Es sind jedoch Menschen mit Sinnesbehinderungen und Menschen, denen der FSW die sogenannte „Selbstverwaltungscompetenz“ abspricht, ausgeschlossen. Weiters sind BezieherInnen der Pflegegeldstufen 1 und 2 ausgeschlossen und damit viele Menschen mit Lernschwierigkeiten.

SAFEGUARDS IN INSTITUTIONS

20. Do safeguards exist to ensure that, when persons with disabilities in institutions have the choice as to whether to stay or to go, they stay only under their own volition?

SUMMARY OF RESULTS

The surveyed NGOs are in agreement that persons with disabilities are not sufficiently informed that they have the freedom of choice. However, some see this objective sufficiently met by way of the resident representation system and others by way of the Institutional Residence Act. One NGO noted that the selection of different living arrangements is too small and another that no type of support is available for persons with learning disabilities.

ADDITIONAL INFORMATION

All in all, the NGOs convey a situation in which neither the structures nor the financial resources exist to allow persons with disabilities to freely choose where and with whom they would like to live. The matter of safeguards is therefore almost irrelevant. In international comparison, Austria received a "red" light because no legal entitlement to independently choose a specific place of residence exists.

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	Tyrol (T)	<input checked="" type="radio"/>
	Vorarlberg (VBG)	<input checked="" type="radio"/>
	Vienna (VA)	<input checked="" type="radio"/>

- Every institution is, e.g., screened annually by an independent body. Persons with disabilities are always given the choice as to whether to stay or to go.
- Institutions may not be screened, or persons with disabilities in those institutions may not be informed of their freedom to choose as to whether they want to remain in them.
- Institutions are not screened and persons with disabilities therein have no freedom of choice as to whether they remain there or not.

REMARKS

LA: Heimaufenthalts- & Unterbringungsgesetz.

SBG: Bewohneranwaltschaft (Bewohnervertretung).

VA: (1) Es gibt keine ausreichenden außerinstitutionellen Unterstützungsstrukturen, z. B. für Menschen mit intellektuellen Behinderungen. (2) Institutionen werden nicht ausreichend von außen überprüft, eine nicht ausreichende Information über die Wahlfreiheit des Wohnortes an die KlientInnen ist zu vermuten.

ACCESSIBILITY OF OFFICIAL WEBSITES

23. What percentage of the state's official websites are universally accessible?

SUMMARY OF RESULTS

According to information from the administrators, NGOs and independent research by the Essl Foundation, version 1.0 of the Web Content Accessibility Guidelines (WCAG) of the World Wide Web Consortiums (W3C) is implemented on most of the provincial websites. Since 11 December 2008, WCAG version 2.0 has also been in effect. All the webmasters of the provincial websites were contacted by the Essl Foundation, but most of the inquiries remained unanswered. Due to the low number of responses (Vienna, LA, UA, Salzburg and Burgenland), the Essl Foundation viewed a random sampling of individual websites and noted where reference was made to accessibility on the basis of WCAG 1.0/2.0 or WAI. One NGO indicated in particular that the website of the city of Vienna is accessible (www.wien.gv.at).

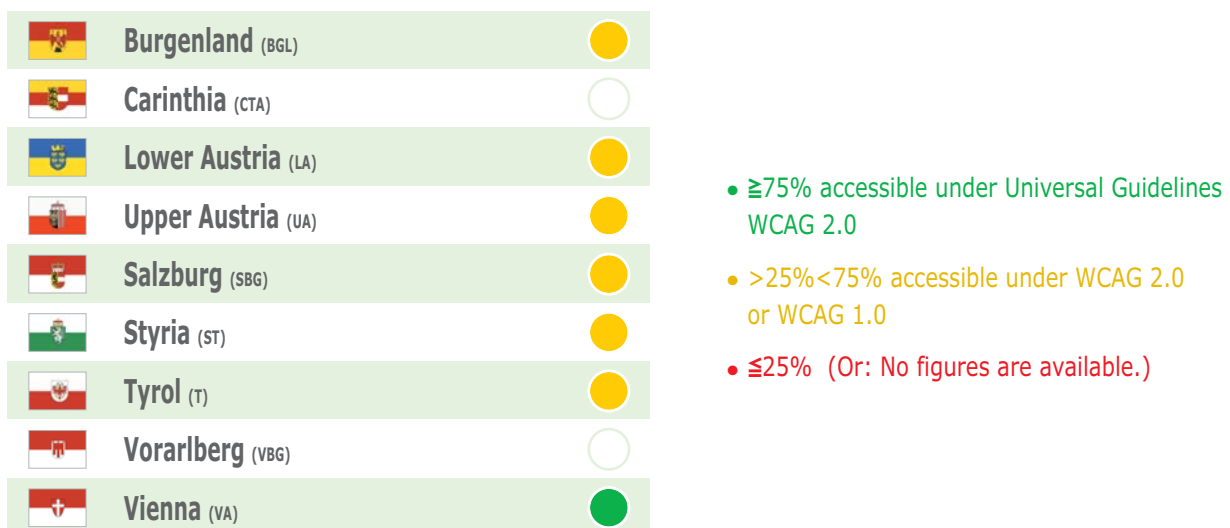
ADDITIONAL INFORMATION

According to the Federal Chancellor's Office, no statistics exist at the regional level regarding the websites of provinces and cities and little knowledge exists regarding the current status. The federal government has also offered consulting and training to cities on this subject in cooperation with the Austrian Association of Cities and Towns.

FURTHER INFORMATION

www.w3.org

www.digitales.oesterreich.gv.at/site/cob_24127/5715/default.aspx



REMARKS

VA: (1) Eine barrierefreie Gestaltung von Webseiten offizieller Regierungs- und Verwaltungskörperschaften ist durch das E-Government-Gesetz seit 1. 1. 2008 vorgeschrieben. Durch dieses Gesetz wird implizit auch die Anwendung der erst nachträglich veröffentlichten WCAG-2.0-Kriterien nahegelegt. Da dies nicht explizit erfolgt und die Umsetzung immer auch nicht 100% erfolgt bzw. noch nicht erfolgt ist, ist eine Zahl von 25–75% Zugänglichkeit gemäß WCAG 2.0 realistisch (als Vorbild sei hier die Seite www.wien.gv.at genannt). (2) Hr. Rederer: www.wien.gv.at: 75% zugänglich gemäß Universal Guidelines WCAG 2.0.

RIGHT TO MAINSTREAM PRIMARY EDUCATION

25. Does a child with disabilities have the right receive free and compulsory primary education within the mainstream educational system?

SUMMARY OF RESULTS

This question is particularly sensitive not only because of its relevance to social policy but also since it is a regular topic of political discussions. Since this question and the possible answers refer clearly to the "right" to a primary education within a mainstream school rather than to the situation in practice, all provincial school inspectors for special education indicated that this right exists and therefore selected a "green" light (in principle simply due to the fact that this right is legally mandated in Austria). However, Question 27 should be also be noted in this regard since it sheds light on the deviations arising in practice. The fact is that an inclusive education is not truly provided in most of Austria's schools. Many provincial school inspectors make a point of stressing that the schooling decision is "never made against the will of the parents" or is decided in collaboration with them. One respondent addresses the resource problem and another blames the rural conditions and small class sizes for the "integration problem". The NGOs in Tyrol, Lower Austria and Upper Austria in particular state that the "right to choose" exists only on paper since in many cases no option other than a special school even exists, meaning no choice can exist in practice.

ADDITIONAL INFORMATION

In a statement within the framework of the UN Convention on the topic of education, Petra Pinetz & Ingeborg Pröglhöf described the situation in Austria as follows: "Since 1993 as well as since 1996, parents of children with disabilities have had the opportunity to choose between attending a primary school, a lower grade of a general secondary school, secondary school, cooperative middle school, modern middle school or a special school ... The scope and manner of integration are specific to the individual provinces. However, very different traditions have been established with regard to the integration of disabled children... It can also be observed that all-day forms of schooling and all-day care opportunities of an integrated nature frequently do not exist ... Students with severe impairments, blind and deaf children are separated out within the integrated system. (The authors use the term "integration" instead of "inclusion".)

	Burgenland (BGL)	
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	Vorarlberg (VBG)	
	Vienna (VA)	

- Every child with a disability has the right to receive free and compulsory primary education within the mainstream educational system.
- Only children with certain disabilities have such a right. Others must attend special schools.
- A child with disabilities has no right to receive free and compulsory primary education within the mainstream educational system.

NO REMARKS

CHILDREN WITH DISABILITIES IN PRIMARY EDUCATION

27. What is the percentage of children with disabilities who are educated in a mainstream primary school?

SUMMARY OF RESULTS

In the majority of Austrian provinces, between 25 and 75 percent of all students with disabilities attend mainstream primary schools, and detailed figures are available from the 2006/2007 national education report for a comparison of the situation in the various provinces. This report reveals the following rankings:

1. Styria:	85.75 percent	6. Carinthia:	53.47 percent
2. Burgenland:	75.47 percent	7. Tyrol:	42.28 percent
3. Upper Austria:	69.45 percent	8. Vorarlberg:	37.62 percent
4. Vienna:	63.99 percent	9. Lower Austria:	36.75 percent
5. Salzburg:	55.23 percent		

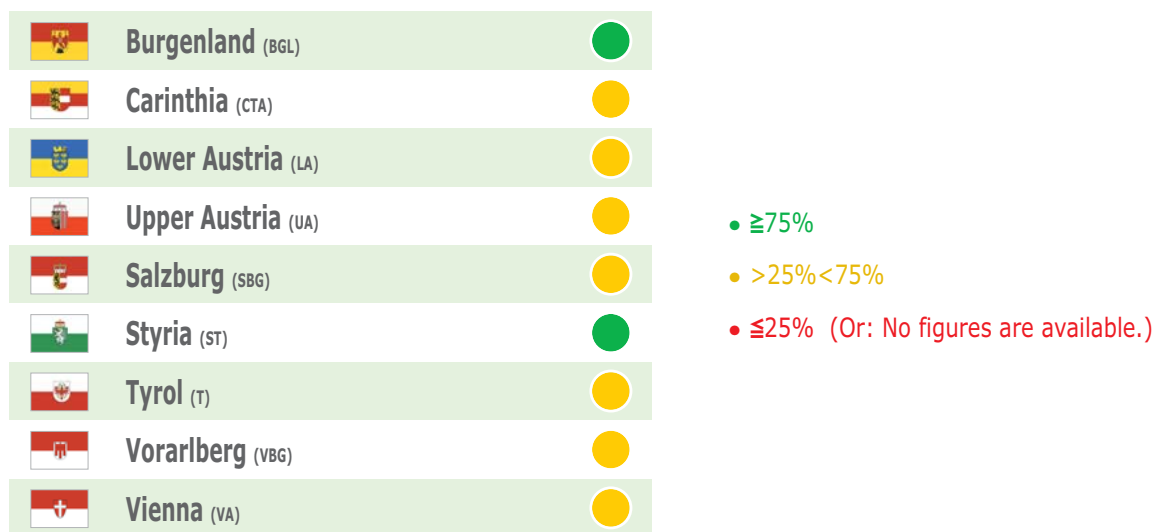
This wide spread around the Austrian average of 57.8 percent cannot be explained (purely) by regional conditions such as the varying convenience and density of primary schools. The most important explanation, which was also given by the NGOs, is the political will to achieve inclusive education. Styria's leading role, for instance, is due to an earlier policy initiative.

ADDITIONAL INFORMATION

In Tyrol, the assessment of integration by the NGOs diverges noticeably from the figure provided by the provincial school inspector. There appear to be a great many negative anecdotal accounts here.

FURTHER INFORMATION

Österreichische Bildungsbericht, Band 2 (2006/2007), Statistik Austria;



NO REMARKS

OPPORTUNITIES TO FINISH VOCATIONAL EDUCATION

37. Are there additional opportunities for young persons with disabilities to finish vocational education programs?

SUMMARY OF RESULTS

The Integrative Professional Education programme (IBA) exists throughout Austria as a partial qualification and extended education programme. This opportunity is available to young persons with physical and mental disabilities. In May 2010, 3,295 persons made use of an extended education and 1,459 of a partial qualification. Young people whose families have immigrated to Austria also take particular advantage of this education path. However, the percentage made up by such persons could not be reported by the Austrian Federal Economic Chamber. All NGOs are familiar with this professional programme, but many state that this opportunity exists only for some vocational students, especially the partial qualification.

ADDITIONAL INFORMATION

The NGOs object that these opportunities are used primarily by young persons from immigrant families and not by the people for whom the programme is actually intended. However, this cannot be substantiated by statistics.

"Another problem is that the availability of apprenticeship positions is generally decreasing and along with it the chances for young persons with disabilities to obtain such a position. One short-term alternative would be to take a position in a cross-company apprenticeship workshop, but this would lead to reduced opportunities of practicing a profession later," says Dr. Andrea Schmon, director of the Federal Social Welfare Office in Vienna.

In summary, this indicator does not optimally capture whether effective, supplemental opportunities for a vocational education and entry into a profession exist for young persons with disabilities.

	Burgenland (BGL)	
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	Styria (ST)	
	Tyrol (T)	
	Vorarlberg (VBG)	
	Vienna (VA)	

- Effective programmes exist for all young people with disabilities to finish their vocational education.
- Some, but not all, professional students have these options - or just some of them.
- No programmes exist that offer young people with disabilities any chance of finishing their vocational education.










NO REMARKS

RIGHT TO RECEIVE THE NECESSARY SUPPORT TO VOTE

38. Does a person with disabilities have the right to receive all the necessary support to vote, in secret, in elections for parliament?

SUMMARY OF RESULTS

The NGOs paint a generally positive picture with regard to comprehensive accessibility in exercising the right to vote. The focus here lies on the accessibility of the voting site, and the impression given is that all communities strive to make at least one voting site in their community accessible to persons with disabilities. Less consensus exists regarding further measures. Vienna and Salzburg are the only provinces to offer the option of a "mobile election commission" for persons who cannot seek out a voting site due to insufficient mobility or because they are confined to bed. Lower and Upper Austria as well as Burgenland did not respond to the inquiry by the ESSL Foundation, and the NGOs in Upper Austria in particular believe that accessibility is not ensured or only with limitations.

 Burgenland (BGL)	<input type="radio"/>	
 Carinthia (CTA)	<input checked="" type="radio"/>	• Any voter with a disability receives all necessary support to vote in secret.
 Lower Austria (LA)	<input type="radio"/>	
 Upper Austria (UA)	<input type="radio"/>	• Transport may not be free. Or personal assistance may be limited. Or a Braille ballot or template may not be available. Or a voter may not be able to vote freely or secretly in his or her institution.
 Salzburg (SBG)	<input checked="" type="radio"/>	
 Styria (ST)	<input checked="" type="radio"/>	
 Tyrol (T)	<input checked="" type="radio"/>	• No such right exist. Or, perhaps, a medical practitioner has prevented a person from voting by declaring him or her incompetent.
 Vorarlberg (VBG)	<input checked="" type="radio"/>	
 Vienna (VA)	<input checked="" type="radio"/>	

REMARKS

SBG: Hr. Mag. Bergmüller, Lreg.: Die landesrechtlichen Wahlbestimmungen sind in vielen relevanten Punkten analog den bundesgesetzlichen Bestimmungen ausgestaltet. Der barrierefreie Zugang zu Wahllokalen bzw. zur Wahlurne ist nach meiner Meinung primär kein wahlrechtliches Problem, sondern eher ein Problem des generellen barrierefreien Zugangs zu Amtsgebäuden. Alle Gemeinden sind bemüht zumindest ein Wahllokal in der Gemeinde barrierefrei zugänglich zu haben. Notwendige Umbaumaßnahmen an Amtsgebäuden in den Gemeinden können nur nach Maßgabe der verfügbaren finanziellen Mittel vorgenommen werden. Stimmzettel mit Braille-Schrift wurden auf kommunaler Ebene (Gemeindewahlen) in Salzburg bereits zur Anwendung gebracht. Da nur sehr wenige blinde bzw. sehschwache Personen in der Lage sind diese Schrift zu lesen, wurde wieder davon abgegangen die Stimmzettel (zusätzlich) in Braille-Schrift herzustellen. Sehr wohl werden bei Landtagswahlen Stimmzettel-Schablonen zur Verfügung gestellt, im Jahr 2009 wurden auch Schablonen für die Ausfüllung der Wahlkarte ausgegeben. Es wird angemerkt, dass (auch) bei der Landtagswahl die Möglichkeit besteht, die Stimme außerhalb des Wahllokales im Wege der Briefwahl abzugeben.

T: Hr. Dr. Christ, Lreg.: Tiroler Landtagswahlordnung 2008 sieht etwa vor, dass nach Maßgabe der technischen Möglichkeiten vorzusehen ist, dass in jeder Gemeinde zumindest ein für Körperbehinderte barrierefrei erreichbares Wahllokal vorhanden ist. Für blinde und schwer sehbehinderte Wähler sind nach Maßgabe der technischen Möglichkeiten geeignete Leitsysteme vorzusehen. Nach § 41 Abs. 1 leg. cit. hat die Wahlbehörde Blinden oder schwer sehbehinderten Wählern als Hilfsmittel zur Ermöglichung der selbständigen Ausübung des Wahlrechtes Stimmzettel-Schablonen zur Verfügung zu stellen. Körper- oder sinnesbehinderte Wähler dürfen sich von einer Person, die sie selbst auswählen können und gegenüber dem Wahlleiter bestätigen müssen, führen und sich bei der Wahlhandlung helfen lassen. Auch bei der vergangenen Bundespräsidentenwahl gab es etwa für sehbehinderte Wähler Stimmzettel-Schablonen.

ACCESSIBILITY OF EXHIBITIONS IN MUSEUMS

39. Are all museums required by law to ensure that their exhibits and/or contents are also accessible to blind persons and persons with hearing disabilities?

SUMMARY OF RESULTS

There is no obligation in Austria or in any province for museums to offer special tours, exhibitions or plain-language for the vision- or hearing-impaired.

ADDITIONAL INFORMATION

In Vienna, in particular, there are individual museums that view persons with disabilities as a special target group and offer separate tours for the deaf or vision-impaired. Worth mentioning here is the "MUSA – Museum on Demand", which has offered touch tours for the blind and vision-impaired since May 2010. The Museum of Technology, the Belvedere and the MUMOK were also given special mention.

	Burgenland (BGL)	●
	Carinthia (CTA)	●
	Lower Austria (LA)	●
	Upper Austria (UA)	●
	Salzburg (SBG)	●
	Styria (ST)	●
	Tyrol (T)	●
	Vorarlberg (VBG)	●
	Vienna (VA)	●

- The law requires all museums and monuments to be fully accessible, it also requires the provision of special guidance to their exhibits and/or contents.
- Only some museums and monuments need fulfill this requirement. Or not all these requirements are met. Or, whilst the requirement is not legal, full (or partial) accessibility is provided anyway.
- No such legal requirement exists.

REMARKS

VA: (1) Fr. Dr. Karner, BMUKK: Es gibt keine rechtliche Verpflichtung, in Rahmenzielvereinbarung aufgenommen bzw. Hinweis im Vermittlungsprogramm diese Zielgruppe mit einzubeziehen. Belvedere bietet spezielle Führungen für Seh- und Gehörbehinderte Personen an (mit Gebärdendolmetscher).

(2) Unter http://www.hilfsgemeinschaft.at/index.php?id=127&no_cache=1 da sind Museen angeführt, die Ausstellungen für Sehbehinderte anbieten. Multimediaguide für Gehörlose im Technischen Museum und MUMOK, wo man mit Handschuhen und Mitarbeiter auch Kunstwerke „begreifen“ kann.

(3) Es gibt keine mir bekannten gesetzlichen Bestimmungen. Allerdings bemühen sich viele Museen um ein attraktives Angebot für Kunden mit Seh- und Hörbeeinträchtigungen, welches letztlich allen Kunden zugute kommt.

RESERVED AREAS FOR WHEELCHAIRS IN EVENT LOCATIONS

40. Do opera houses, concert halls and sports stadia provide reserved areas for those in wheelchairs?

SUMMARY OF RESULTS

The NGOs in all provinces state that only some event sites also provide seating/areas for persons with disabilities. This contrasts with the inquiries sent to event sites themselves which consistently gave positive answers. The difference may lie in the quality of the seats offered to wheelchair users. For example, many consider the available reserved seats sufficient even if a companion is unable to remain alongside. Since more precise comparisons were not available based on the survey methodology, a rating of "orange" was assigned.

ADDITIONAL INFORMATION

Selected sports stadia, concert halls, provincial theatres, etc. were asked in a random sampling (see explanations).

	Burgenland (BGL)	
	Carinthia (CTA)	
	Lower Austria (LA)	
	Upper Austria (UA)	
	Salzburg (SBL)	
	Styria (ST)	
	Tyrol (T)	
	Vorarlberg (VBL)	
	Vienna (VA)	

- All opera houses, concert halls and sports stadia provide reserved areas for those in wheelchairs.
- Only some, but not all, provide such areas.
- None provides any such reserved areas.

NO REMARKS

STATISTICS ON DISABLED PERSONS LIVING IN INSTITUTIONS

41. Are official statistics published annually covering, at the minimum, the number, age group, sex, and care provided to all those persons with disabilities living in institutions?

SUMMARY OF RESULTS

There is no comprehensive, Austria-wide study of the living situations of persons with disabilities. This is justified by the competent agencies and authorities in that there is also no department with broad responsibility for “disabled affairs” but that this responsibility is distributed across diverse offices. In particular, the responsibility is split between the federal government and the provinces. Across all provinces, only very few figures are published, and those that are published are usually older than one year. The Upper Austrian report was the only one to address age and gender. The Carinthian authority stated that they had no further statistics, and Burgenland gave only the number of care positions.

ADDITIONAL INFORMATION

The ESSL Foundation issued inquiries to all social welfare departments in the provinces, but only a few responded. However, there are social welfare reports from every province that can be analysed. The NGOs confirm that there are no statistics on this topic.

FURTHER INFORMATIONEN/SOZIALBERICHTE:

http://www.burgenland.at/media/file/1223_sozialbericht_2008.pdf

http://www.ktn.gv.at/173357p_DE-

http://www.noel.gv.at/bilder/d41/Sozialbericht_2008.pdf

<http://www.land-oberoesterreich.gv.at>

<http://www.salzburg.gv.at/sozialbericht2007.pdf>

http://www.soziales.steiermark.at/cms/dokumente/11195892_5352/cf68e743/Sozialbericht_07_08.pdf

<http://www.vorarlberg.gv.at/pdf/5-menschen-mit-behinderu1.pdf>

<http://www.tirol.gv.at>

<http://www.fsw.at/downloads/broschueren/fsw/GB08.pdf>

	Burgenland (BGL)	
	Carinthia (CTA)	
	Lower Austria (LA)	
	Upper Austria (UA)	
	Salzburg (SBG)	
	Styria (ST)	
	Tyrol (T)	
	Vorarlberg (VBG)	
	Vienna (VA)	

- All this information is to be found in a single official publication published on an annual basis and figures are no older than one year.
- Some of these figures are not published. Figures are not published annually, or are over a year old when published. Figures cover only selected institutions.
- No such statistics are officially published.

NO REMARKS

STATISTICS ON EDUCATION AND EMPLOYMENT

42. Are official statistics about the education and employment of persons with disabilities published at least every 10 years?

SUMMARY OF RESULTS

There are no official statistics on the education and employment of persons with disabilities. The 2002 micro-census did concern itself with employment status but makes reference only to the physically impaired and does not offer a clear picture, according to Statistics Austria. The NGOs answered this question very positively but indicated that they associated this with the statistics of persons with disabilities receiving benefits, which are consistently published. The individual social welfare reports of the provinces also do not contain figures that can be compared with each other. In summary, there is no comprehensive overview of the education and employment situations of persons with disabilities. Not a single province has current data on this topic.

ADDITIONAL INFORMATION

The social welfare reports of the provinces were also used for evaluating this question.

FURTHER INFORMATIONEN

http://www.bmsk.gv.at/cms/site/attachments/0/1/8/CH0009/CMS1259766359480/behindertenbericht_09-03-17.pdf
www.statistik.at

	Burgenland (BGL)	●
	Carinthia (CTA)	●
	Lower Austria (LA)	●
	Upper Austria (UA)	●
	Salzburg (SBG)	●
	Styria (ST)	●
	Tyrol (T)	●
	Vorarlberg (VBG)	●
	Vienna (VA)	●

- In the last 10 years, at least one official study has been undertaken and the results published that provides a clear picture of the education and employment of persons with disabilities.
- Only certain figures are available. Or figures are older than 10 years. Or figures are open to interpretation.
- No such official study has ever been undertaken.

REMARKS

VA: Zahlen sind unzuverlässig, da es in allen Bereichen keine systematische Erfassung des Kriteriums Behinderung gibt (zum Teil auch von Betroffenen selbst nicht gewollt, aus Angst vor Stigmatisierung).

DESIGNATION OF "FOCAL POINTS" WITHIN GOVERNMENT

44. If the state has signed, or ratified, the Convention, has it designated "focal points" within government to address matters relating to the Convention's implementation?

SUMMARY OF RESULTS

According to the Federal Ministry of Labour, Social Affairs and Consumer Protection (BMASK), a "focal point" exists at the national level for implementation of the UN Convention at that level which also acts as a coordinating office for the nine "focal points" to be established at the provincial level. These "focal points" are BMASK and the nine provincial offices of the Federal Social Welfare Office operating under the ministry. The coordination mechanism is managed within BMASK in collaboration with the National Committee for Disabled Persons. The monitoring process is implemented by an independent monitoring committee in which members of civil society are involved. Unlike at the national level, no "focal points" have been established yet within the provinces. In Vienna, an amendment to the Anti-Discrimination Act is currently under examination that calls for a monitoring agency for the province of Vienna that is independent of government control. The provincial authorities of Salzburg and Tyrol indicate that "focal points" have been created but that civil society has not been completely integrated into these measures. The province of Salzburg even stated that, in its view, it is the Republic of Austria that is a signatory to the UN Convention and a province can only act within its realm of competence, in other words calling the obligation into question. The monitoring committee stated that at the time of the study's conclusion in August 2010, it was only aware of the planned Viennese amendment.

FURTHER INFORMATIONEN:

www.monitoringausschuss.at

	Burgenland (BGL)	
	Carinthia (CTA)	
	Lower Austria (LA)	
	Upper Austria (UA)	
	Salzburg (SBG)	
	Styria (ST)	
	Tyrol (T)	
	Vorarlberg (VBG)	
	Vienna (VA)	

- There are "focal points", they are effective and civil society is fully involved.
- There are "focal points", but, e.g., civil society does not participate "fully" in monitoring the state's implementation of the Convention.
- State parties have not yet designated one focal point within government for such matters. (Or: State has not signed the Convention).

REMARKS

SBG: Hr. Mag. Viehauser, Büro Scharer: Rechtlich gesehen, ist im Wesentlichen die Republik Österreich Unterzeichner der UN-Konvention. Ein Bundesland kann nur im Rahmen seiner Kompetenzen handeln.

VA: Fr. STR. Mag. Wehsely: Derzeit befindet sich eine Novelle zum Wiener Antidiskriminierungsgesetz in Begutachtung, die am 1. Juli 2010 im Landtag beschlossen werden und im Herbst in Kraft treten soll. Gemäß dieser Novelle soll in Entsprechung des Art. 33 der UN-Konvention über die Rechte von Menschen mit Behinderungen bei der Stelle zur Bekämpfung von Diskriminierungen eine weisungsunabhängige Monitoringstelle für das Land Wien eingerichtet werden, in die sowohl Vertreterinnen und Vertreter der organisierten Menschen mit Behinderung als auch unmittelbar betroffene Personen einbezogen werden.

GOOD PRACTICE EXAMPLES

Universal Access to Justice

Israel

Many justice systems around the world are not accessible to people with mental, intellectual or communication disabilities as investigative and judicial procedures are not adapted to meet their needs. In Israel this is very different.

Formal language, legal terminology and the complex formulation of questions are often beyond the understanding of people with intellectual disabilities. There are no provisions for including alternative forms of communication or investigating people who have difficulties in temporal or spatial orientation, or for properly assess their testimony. The confrontational circumstances, intimidating to any person involved in them, are doubly so for people with disabilities who may have to confront a defendant who is a family member or past caregiver. In addition to these barriers, people with disabilities are considered to be more vulnerable to criminal assault or to persuasion by others to commit crimes.

In many cases, the police and judicial system do not have the tools to provide an appropriate response to these problems. They do not know how to question people with disabilities or enable them to give coherent testimony. Evidence is not properly collected and the validity of testimony challenged. Offenders easily avoid being charged or brought to trial and are returned to the streets, perpetuating the circle of violence. In situations in which suspects with disabilities are interrogated in ways not adapted to their cognitive, linguistic or emotional capabilities, false confessions may be extracted and lead to a wrongful conviction.

The end result is that the justice system does not ensure effective access to justice for all. Its central objectives of administering justice and ascertaining the truth are not attained with regard to people with mental, intellectual or communication disabilities. This can only happen if law enforcement agencies are able to interrogate persons with disabilities fairly and enable them to tell their stories, serve as witnesses and utilise the criminal justice system on an equal basis with others.

In 1995, recognising the need to equip the legal and law enforcement systems with the tools to ensure equal access for people with disabilities, Bizchut – The Israel Human Rights Center for People with Disabilities turned to the Israeli Ministry of Justice. We presented the range of difficulties and obstacles that people with disabilities face when interacting with the legal system. Following the submission of a special Bizchut re-

port on the matter, a ministerial committee was established to address the issue. The committee headed by the deputy Attorney General Yehudit Karp, authored draft legislation that would provide the necessary adaptations in investigative and courtroom testimonial procedures. The Committee for Ordering Criminal Procedures, headed by Supreme Court Justice Eliahu Mazza, also adopted the draft legislation, leaving the government to decide if the draft law should be presented to the Knesset as a government sponsored bill.

Towards the middle of 2003, realising that the draft legislation was progressing extremely slowly, Bizchut initiated a project to provide a response in the spirit of the draft law. The project was organised around two basic strategies:

- Making the actual proceedings accessible: Bizchut professionals provided assistance in cases involving individual victims and offenders with disabilities, both during police investigations and the process of giving testimony in court. Cases were referred by the police, state prosecutors, public defenders, judges, rape crisis centres, family members and service providers.
- Bringing about structural changes in law enforcement frameworks: Bizchut staff gave hands-on training workshops and

Summary

- At present, many justice systems around the world are not accessible to people with mental, intellectual or communication disabilities.
- **1995:** Bizchut – The Israel Human Rights Center for People with Disabilities raised the issue with the Israeli Ministry of Justice.
- **2003:** Project initiated to make actual legal procedures accessible and to bring about structural changes in law enforcement frameworks.
- **2005:** Enactment of the Investigation and Testimony Procedural Acts, initiated and promoted by Bizchut, by the Israeli parliament.

“Training of relevant stakeholders, government action and legislation are three core policy measures that should be used in programmes aiming to reach the standard of Article 13 on the domestic level in any state.”

Esther Sivan, Bizchut

lectures to the police, state prosecutors, legal aid attorneys, judges and organisations assisting victims of crime, raising awareness of the necessity to adapt investigative and judicial procedures and training professionals how to do so.

Cases that would once have been closed before indictment due to non-credible testimony were now brought to court and in some instances led to the conviction of offenders.

The Investigation and Testimony Procedural Act (Accommodations for Persons with Mental or Intellectual Disabilities), initiated and promoted by Bizchut, was finally enacted by the Israeli parliament, the Knesset, in 2005 and entered into force at the beginning of 2006. Adaptations provided for under the law include:

- Interrogations performed by a professional (psychologist, social worker, special education professional) specially trained in how to communicate with persons with disabilities
- Utilisation of experts to advise the court on the type of disability, its characteristics and possible implications on the testimony
- Utilisation of special devices and alternative and augmentative communication, such as pictures and communication boards
- Giving testimony through closed circuit television or behind closed doors, in the judge's chambers and without official attire

Parallel to the enactment of the domestic law in Israel, Bizchut was honoured to become an accredited NGO to the UN in May 2004 and participate in five subsequent sessions of the UN Ad Hoc Committees discussing the Convention on Rights of Persons with Disabilities. Our extensive legal and legislative experience enabled Bizchut to play an active role in promoting inclusion of this issue in the Convention and defining the content and language of the subsequent article on access to justice.

The experience gained in Israel through years of work on the field level, as well as advocacy and legislative steps, have enabled us to help promote the concept of Access to Justice for People with Disabilities on the international level. Bizchut currently provides advice to states, NGOs (service providers and advocacy-oriented) and professionals as to promoting the idea of an accessible justice system for all. Training of relevant stakeholders, government action and legislation are three core policy measures that should be used in programmes aiming to reach the standard of Article 13 on the domestic level in any state.

Author: Esther Sivan, Executive Director, Bizchut - The Israel Human Rights Center for People with Disabilities

Salient Points

- Interrogations performed by a professional (psychologist, social worker, special education professional) specially trained in how to communicate with persons with disabilities.
- Utilisation of experts to advise the court on the type of disability, its characteristics and possible implications on the testimony.
- Utilisation of special devices and alternative and augmentative communication, such as pictures and communication boards.
- Giving testimony through closed circuit television or behind closed doors, in the judge's chambers and without official attire.

Jobs for Autistic Persons

Denmark

Thorkil Sonne, himself father of a son diagnosed with ASD, founded the company *Specialisterne* – a Danish Software Testing Company working for IT companies like CSC and Cisco that employs predominantly people with ASD.

Specialisterne, which is Danish for specialist, was founded in 2004 by Thorkil Sonne, a formal IT Manager. His main motivation is simple, as he says: “I am a parent who wants to make the world a more welcoming place for my child, who was diagnosed with ASD”.

The system he created seems to work: *Specialisterne* employs about 35 consultants with ASD and works for prestigious clients such as CSC and Cisco.

Autism spectrum disorder

Autism is a complex disorder, a spectrum of neuro-developmental conditions often referred to as a “triad of impairments”, which summarises difficulty in social interaction, social communication and social imagination. They usually have difficulties with understanding body language, facial expression, sarcasm or other implicit communication, cannot contend with chaotic or turbulent environments, are regimented and inflexible in their behavioural patterns and have difficulty working in teams. To Thorkil Sonne, this was the antithesis of everything demanded in a labor market that celebrated teamwork, flexibility, mobility, and the ability to adapt to perpetually changing market conditions. In fact, only six percent of adults with autism are in full-time employment.

But Thorkil began to recognise the strengths of people with ASD: the extreme attention to detail, excellent memory and the ability to concentrate and work very systematically brought him to the idea that these people have all the characteristics to be excellent software testers.

Rigorous routine and exacting thoroughness

Testing involves checking and rechecking the same routine outcomes every time a new version of the software appears, to make sure an application has not “regressed” by taking on accidental new “bugs” along with planned new features. Rigorous routine and exacting thoroughness are the primary virtues of a software tester.

All these facts suggested to Thorkil that testing was an area ripe for sub-contracting. He consequently began to visit com-

panies, proposing to their development teams that they should subcontract the aspects of their testing that developers would be bad at.

His former employer provided the first contract for *Specialisterne*. The idea of sub-contracting testing to specialists was new to the client. Moreover, the fact that the testers would have ASD was even odder, invoking thoughts of philanthropy and inferior quality. “However, I didn’t want to appeal to my client’s sense of charity. I wanted to offer best-in-class service, and I intended to pay our employees industry-competitive wages.” Thorkil says.

Five months of training and assessment

A major challenge for *Specialisterne* was finding individuals with the appropriate combination of abilities that would enable them to effectively deliver services as consultants for the information and communication technology industry on commercially viable terms. Moreover, ASD is a spectrum. Each person with autism will have a unique combination of strengths and impairments.

Therefore, a five-month training programme for candidates with ASD who were interested in preparing for the labour market was established.

LEGO Mindstorms

During the last years, *Specialisterne* has actively employed LEGO Mindstorms for the assessment and training of their

About Autism

One percent of the world’s population may have autism spectrum disorder, this is equivalent to 68 million persons worldwide. Even more people may have other invisible diagnoses like attention deficit hyperactive disorder (ADHD). Many of those are potential specialists people – with a great business potential.

"However, I didn't want to appeal to my client's sense of charity. I wanted to offer best-in-class service, and I intended to pay our employees industry-competitive wages."

Thorkil Sonne

candidates. They chose LEGO as a tool because many children with ASD are both familiar and skilled in playing with LEGO. This indicates that most people with ASD will be comfortable and confident coming into the training programme. LEGO Mindstorms are products that combine traditional LEGO bricks and mechanical and electronic elements to build robots or other automated or interactive systems.

The consultants

Specialisterne normally admits anyone with interest to the five-month labour market preparation programme; the only formal requirement is an official diagnosis of ASD. No formal education or work experience is expected.

Once the candidates have finished the five months of training, the biggest challenge for Specialisterne is the integration of the consultants into a normal, if chaotic, workplace.

The model they developed is one with groups of two or three testers, combined with a team manager/pedagogical lead who does not have ASD, whose main function is to coordinate the work of the group, and more importantly, to liaise with the rest of the organisation where it is necessary to insulate the testers from the turbulence of many technology companies.

For the future, Specialisterne has several aspirations: "We would like to see our knowledge be transferred to all continents to enable people with ASD to have a productive life. We

want to use the experiences from the business to produce educational tools for pupils with ASD to prepare them for an active life based on their special strengths."

Authors: Thorkil Sonne, Jonathan Wareham
<http://www.specialistpeople.com>

Thorkil Sonne is an Ashoka Fellow and participated in the Ashoka Globalizer Conference in summer 2010 in Vienna. His aim is to internationalise his organisation. Find more about Ashoka and the Globalizer Conference at www.ashoka.org and www.esslsocialprize.org

Vision of Specialisterne

SPECIALISTERNE wants to give people with ASD the opportunity to use and develop their special skills based on their own qualifications, strengths and ambitions.

SPECIALISTERNE wants to offer new special skills to the business community in niche areas which demand insight, precision and regularity.

SPECIALISTERNE wants to prove to society that people with ASD can be equal contributors to the development of our society.

SPECIALISTERNE wants to compete on market terms and open offices nationally and internationally so as many people as possible with ASD will have the opportunity to realise their vocational ambitions.

Virtual World Research in Hospitals

United Kingdom

People need good, clear, accessible information that they can understand, including some knowledge about risks and their right to say “no”. A hospital in the United Kingdom has found a new approach.

A core principle of the 2005 Mental Capacity Act¹⁾ (MCA) is the presumption of capacity so that it is no longer possible to judge on the basis of diagnosis or condition alone. Instead, capacity is seen as decision specific and, unless there is good reason to believe the person has a mental impairment that might interfere with capacity, no assessment is necessary. Where someone has a learning disability however, we have taken the view that this may constitute a pre-existing impairment that places the person at risk of consent by default. There is abundant evidence to show that people with mental impairments, memory difficulties, and problems of thinking and reasoning are inclined to agree or acquiesce, when they are unsure and faced with a decision they don't understand, especially when someone in perceived authority is asking for their view. In the past, when acquiescence has been mistaken for informed agreement and lack of knowledge has been interpreted as incapacity, there have been appalling and traumatic misunderstandings.

A 56 year old man who was subjected to circumcision, his carers believing he was fully consenting but whose common response to questions had always been to agree, became extremely distressed post operatively. He pulled off his dressings, refused food and fluids, developed an infection and finally needed sedation by major tranquiliser to contain him sufficiently for antibiotics to be given.

In Brighton & Hove learning disability services, we followed since 1997 the progress of documents²⁾³⁾ preceding the MCA and incorporated into our assessments accessible information giving and sound interviewing. We employed the Cognitive Interview (CI), a well-researched technique used nationally in police interviewing of vulnerable witnesses⁴⁾. This technique maximises accurate recall and reduces interviewer contamination of information by asking open, memory compatible questions and so it delivers an outcome that is in the person's own words and maximally free from interviewer influence. We have developed the CI to examine meaning in order to explore people's understanding of a proposed procedure in addition to their recall of the information pertaining to it. That is because,

while some people may be able to list the elements of a procedure, they may struggle to link those elements together and so be unaware of the nature of the procedure itself.

We have used and developed this two-pronged approach in Brighton & Hove⁵⁾ since around 1999 and recently embarked on a formal study examining a better way of giving information to people and the impact of the CI itself. This exploration took the form of an exposure to a virtual representation of a hospital built in Second Life followed by a CI to elicit the person's understanding and recall of what had happened.

Second Life is best known as a massively multi-user online game (MMOG) developed by Philip Rosedale (Linden labs) in 1999⁶⁾. Primarily thought of as a 3D social networking environment, it is being used increasingly by commercial and scientific organisations to model risk and provide learning and design development opportunities. Using a browser-like interface, the user takes charge of a digital representation of themselves, an avatar, which they can alter in appearance at will. The avatar can then operate within the simulation as if in the real world, walking round, behind, underneath and above objects and interacting by text or voice with other avatars in their locality. Second Life has a worldwide membership and may have in-world at any one time, up to 80,000 users in-world at any one time. Our build was located in a password protected area leased by Imperial College, London (ICL).

Summary

- To ensure people give valid consent, people need good, clear, accessible information that they can understand.
- In this context, a learning disability may place a person at risk of consent by default.
- Exposure to a virtual representation of a hospital built in Second Life is now being explored as a better way of giving information to people.

"We wanted to see how quickly people identified with their avatar."

Suzanne Conboy-Hill

Our participants were people with learning disabilities who use the Grace Eyre Foundation in Hove. We had met with some of them and their staff team earlier to introduce them to Second Life and to see what sense they made of it. Their enjoyment was encouraging and so we asked the service to help us investigate the two elements of 3D exposure and CI in a study that was funded by the National Institute for Health Research Invention for Innovation programme.

Grace Eyre, a community service for adults with learning disability and our co-researchers, set up their IT suite to run Second Life on a number of computers, giving participants a choice of, for instance, touch screen or mouse and keyboard. Our colleagues and co-researchers at ICL designed and built a simulation within Second Life that looked like Brighton and included the café area of Grace Eyre so that people would be familiar with it. Other colleagues from Brighton University set up video recording and screen capture systems to record people's use of the environment, their comments, and their engagement with the hospital representation. The exposure was generic in that there was no representation of a surgical procedure, just a tour of the virtual reception, assessment, operating and recovery rooms. We were particularly interested in the qualitative data that might indicate the feasibility of this approach for more specific procedures and so we wanted to see how quickly people identified with their avatar, how engaged they were with the environment, and how easy it was for people to use the keyboard or mouse to make their way around.

In our ongoing relationship with Grace Eyre, past participants are still talking positively about "virtual reality", asking when they can go back, and, in some cases, requesting particular facilities there such as shops and a club. As all participants except one fell well within the intellectual range for learning disability (IQ<70) according to our screening assessments

and none had much more than very basic computer experience, we are encouraged to view this aspect of the study as having been successful. The CI component was not in itself evaluated against another interview type this time and we plan to do this in a further phase.

Meanwhile, we continue to use high quality information giving followed by CI assessment for capacity in a wide variety of contexts because the combined procedure appears to fulfil a number of aims. First, it alerts clinical staff to the need to give people comprehensible information. Second, by mediating and delivering that information, carers themselves become better informed along with the service user and our impression is that this has beneficial effects beyond the fact of capacity per se. Third, even when an individual has insufficient cognitive competence for true capacity, their inclusion in the process itself appears to be a positive experience for most.

A 55 year old man with Down's syndrome surprised his carers by showing how much he understood about a forthcoming surgical procedure. Using pictorial representations and a CI assessment, he gestured 'pain', found on request the image of a needle in the drawing of a patient in bed, and responded loudly "NO!" to the suggestion that he would need to go to hospital. As he lacked capacity, we met with staff and family to consider his best interests and the surgery went ahead. This time with none of the difficulty or trauma and with a faster discharge than he had experienced on an earlier occasion. We hope to follow up soon with a programme of product development to support NHS clinicians in enhancing the capacity of vulnerable adults to give valid consent to procedures that affect them.

Author: Dr. Suzanne Conboy-Hill, Consultant Psychologist, Sussex Partnership NHS Foundation Trust & Visiting Clinical Research Fellow, University of Brighton.

Further Reading: This article presents independent research commissioned by the National Institute for Health Research (NIHR) under its i4i Invention for Innovation Programme (II-FS-0908-10011). The views expressed are those of the author(s) and not necessarily those of the NHS, the NIHR or the Department of Health.

- 1) Mental Capacity Act 2005. The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
- 2) Who Decides? Making Decisions on Behalf of Mentally Incapacitated Adults. A consultation paper issued by the Lord Chancellor's Department. Presented to Parliament by the Lord High Chancellor by Command of Her Majesty December 1997.
- 3) Making Decisions. The Government's Proposals for Making Decisions on Behalf of Mentally Incapacitated Adults. October 1999. Lord Chancellor's Office.
- 4) Milne, R. & Bull, R. 1999 'Investigative Interviewing: Psychology & Practice'. Wiley.
- 5) Conboy-Hill, Pg. 2006 'Vulnerable Adults: Assessing Capacity to Consent' In: Clinical Psychology Forum 158: 19-23.
- 6) Rosedale, P. Official Linden Labs web site. <http://lindenlab.com/2010/>; http://www.ted.com/talks/lang/eng/the_inspiration_of_second_life.html

RTÉ Access Services

Ireland

The national broadcaster in the Republic of Ireland (RTÉ) is a model of subtitling for TV-programmes. The coverage for those who are deaf or hard of hearing rarely falls below 90 percent during peak viewing. A chronological list, which could be a successful imitation.

RTE is the national broadcaster of Ireland and the service consists of two television channels RTE One & RTE Two, four radio stations, two orchestras one quartet and two choirs. It also has a magazine, an online service, iPlayer (no subtitles as yet) and teletext service which all operate under RTE Publishing. 50 percent of RTÉ funding comes from the licence fee and the other 50 percent from commercial revenue. This brief paper is to explain how RTÉ built up a strong, reliable subtitling service where none existed before. All our subtitles are "closed" and are accessed through our teletext service on RTÉ Aertel Page 888. Unless you choose page 888 you will not see the subtitles.

Tackling the issues

The following measures were tackled to ensure the success of subtitling. All group meetings for the deaf and hard of hearing, no matter how seemingly insignificant, were attended by at least two representatives from RTÉ.

- All the associations and their representatives were invited into RTÉ studios annually for a day-long meeting when they met and could question RTÉ representatives on all relevant areas. Lunch and a tour of the studios were included.
- The technical team commenced the investigation of possible access to live subtitles from outside Ireland and the introduction of a digital subtitling system. They succeeded with both.
- We decided that we would target coverage during peak viewing. Peak viewing was 18.00 to 23.30 and we did this on both channels. This was well received but required live subtitles on our main NINE news broadcast and there was no Irish company who could provide that service (the court reporting company who had been providing live subtitles ceased operating in 2000).
- It was essential that RTÉ provide a reliable live news subtitling service. We put this service to tender and ITFC in London was the successful bidder and they commenced the live subtitling of our main news bulletin in October 2001. This was the first time any broadcaster had accessed live subtitling from another country – another land mass. Moving into 2002 we were well on our way to success. Our reputa-

tion with the user groups was completely turned around. An RTÉ subtitling website was set up with an email address for queries, complaints and suggestions, extra staff were recruited and trained. In 2004 RTÉ installed a new digital subtitling transmission system, introduced the digital delivery of material to outside subtitlers and put in place the technology to capture live subtitles for repeat programming.

The percentage increase of subtitling coverage since 2003:
76 percent on RTÉ One
203 percent on RTÉ Two

Presently our subtitling coverage for those who are deaf or hard of hearing rarely falls below 90 percent during peak viewing (18.00 to 23.30) on RTE One and 65 percent during the same period on RTE Two. A happy ending for all!

Author: Isabel Charleton, Head of Access Services, Television, RTÉ (Ireland's National Television and Radio Broadcaster)

Summary

- RTÉ is the market leader in the provision of subtitling in Ireland
- RTÉ is the only broadcaster in Ireland to provide live subtitles
- RTÉ was the first broadcaster to access live subtitling from another country.

NL-Alert: Cell Broadcast for Public Warning

The Netherlands

Early warning systems are a fundamental component of disaster risk management. In the case of national emergencies, early warning systems in many countries all over the world at the moment only contain siren signals. To reach those with hearing impairments a special warning system should be implemented.

Cell Broadcast (CB) is a mobile technology that allows messages (currently of up to 15 pages of up to 93 characters each) to be broadcast to all mobile handsets and similar devices within a designated geographical area. The broadcast range can be varied from a single cell to the entire network, thus creating national coverage. Cell Broadcast is designed for simultaneous delivery of messages to multiple users in a specified area. Whereas the Short Message Service (SMS) is a one-to-one and one-to-a-few service, Cell Broadcast is a one-to-many geographically focused service. It enables messages to be communicated to multiple mobile phone customers who are located within a given part of the network coverage area at the time the message is broadcast. Cell Broadcast is more akin to other mass distribution media such as teletext or Radio Data System (RDS). Cell Broadcast is a technology used for communicating with the general public in high-risk and crisis situations. The NL-Alert service, based on Cell Broadcast technology, will be implemented in the Netherlands in the period 2010 and go live in the first part of 2011.

Background and developments

In 2004 the national government was assigned to find new ways to give warning to, alert and inform the public, including the deaf and hard of hearing, in risk and crisis situations.

Results of trials

Reach: In 2007, the reach achieved by one-page Cell Broadcast messages was high (72-88 percent). The technical feedback was improved through the use of log files and a type of preconfigured handset.

Acceptance: The acceptance of Cell Broadcast amongst citizens, and administrators, after using the system, was high (80-94 percent).

Technology: It is also possible to set up mobile phones to receive Cell Broadcast messages.

Content: Cell Broadcast makes it possible both to warn citizens of a disaster and keep them informed. In these situations, it is important to make sure that the message indicates what the threat is and what action is expected from the citizen.

Besides indicating a threat or disaster, and the corresponding location, the message must include a description of the action to be taken by citizens. It is also advisable to indicate both date and time in, or with, the Cell Broadcast messages.

A Cell Broadcast message used as part of a citizen alert system must be clearly recognisable when received. The use of a specific or distinctive tone is a possibility.

Issues

All handsets should support Cell Broadcast and the menus in the handsets should be standardised in order to make the Cell Broadcast system user friendly. Furthermore there should be Cell Broadcast support on upcoming technologies like UMTS, LTE, Wimax etc.

Moreover, the messages are only received real time if the mobile phone is activated.

Authors: J.W.F. Wiersma, Dr. H.M. Jagtman, Prof. B.J.M. Ale, Delft University of Technology, Safety Science Group, www.cellbroadcastforum.org

Summary

- Cell Broadcast is a type of early warning system which is suitable also for people with hearing impairments
- From 2005 to 2007 the Cell Broadcast system was on trial to test reach, acceptance, technology and content

PO-Skåne – The Personal Ombudsman

Sweden

PO-Skåne is a service which offers supported decision-making for persons with severe psychosocial disabilities to avoid guardianship. This is a user-run service for psychiatric patients.

A PO is a professional, highly skilled person, who works to 100 percent on the commission of his client only. The PO is in no alliance with psychiatry or the social services or any other authority, nor with the client's relatives or any other person in his surroundings. The PO doesn't act according to what he thinks is "for his client's own good". He only carries out what his client tells him to. All decisions are made by the client himself and the PO just helps him to express and implement them. This makes the service offered by PO-Skåne a good example of supported decision-making. PO-Skåne is one of the pioneers in developing this new kind of support but, in Sweden, services with POs are now started in many places all over the country. Most of them are run by the local communities, but there are some besides PO-Skåne which are run by non-governmental organisations.

Skåne is the most southern province of Sweden. It has about 1.2 million inhabitants. PO-Skåne operates as a contractor in ten of the 33 local communities in the province. Two thirds of the funding for this service comes from grants by the state and one third from the local community.

Long-term engagement

A PO should be well skilled to be able to argue effectively for the client's rights in front of various authorities or in court. All PO's of PO-Skåne have some kind of academic degree from the university or some similar level of education. Most of them are trained social workers, but some are lawyers and some have other specialised training. A new PO starts with only one or two clients and doesn't have to reach the total number of clients (approximately 12 to 15 per PO) until several months later.

The PO does only what his client wants him to do. As it can take a long time – sometimes several months – before the client knows and dares to tell what kind of help he wants, the PO has to wait, even though a lot of things may be chaotic and in a mess.

This means that the PO has to develop a long-term engagement with his clients, usually over several years. This is a necessary condition for developing a trusting relationship and

for getting into more essential matters. The service primarily offers supported decision-making for persons with psychosocial problems of the most difficult sort (for example people who live entirely in a symbolic world of their own, are barricaded in their apartment, or are homeless in the streets).

In other services, it is usually the clients who have to adjust to a bureaucratic system, but PO-Skåne works in the opposite way and tries to adjust itself to this very special group of persons. This means that the POs have to be very flexible, creative and unconventional in their work.

As many clients are very suspicious or hostile towards strangers – or hard to reach for other reasons – the PO has to go out and find them where they are. If you just sit and wait for clients to come, only the most active ones get the benefit of a PO. This would mean that once again the person in most need of support and whom nobody cares about might be missed.

Building a relationship

The PO tries to reach the person through a series of steps: making contact, develop communication, establishing a rela-

Facts on the PO

- "Personligt ombud" is Swedish for "personal agent" or "personal ombudsman".
- The service has been established in Skåne, the most southern province of Sweden and is going to be implemented in many places all over Sweden.
- The PO doesn't act according to what he thinks is "for his client's own good". He only carries out what his client tells him to.
- The service is anonymous and does not afford any bureaucratic procedure – that is the only way to reach those, who need the service the most.

"The PO does not act according to what he thinks is 'for his client's own good. He only carries out what his client tells him to."

Maths Jespersen

tionship, starting a dialogue, obtaining instructions. Each of these steps can take a long time to complete. Just to make contact can sometimes take several months. It can mean going out and start talking with a homeless, psychotic person in a park, or talking through the mail drop with someone who lives a very barricaded life. Sometimes the communication for a long time only occurs via SMS, internet or letters. Not until a relationship is established and a dialogue created can the PO start obtaining specific instructions from his client.

There should be no bureaucratic procedure to get a PO. If a form had to be signed or an admission note were necessary, many psychiatric users would back out and never get a PO – and it would probably be the persons who need a PO most. To get a PO from PO-Skåne doesn't involve any formal procedure. When a relationship is established, the PO just asks "Do you want me to be your PO?" If the answer is "yes" the whole thing is settled.

Flexible working structure necessary

The PO doesn't have an office, because an "office is power". The PO works from his own home with the help of telephone and internet – and he meets his clients in their home or at neutral places out in town.

The PO doesn't limit his work to Monday-Friday office hours. The week has seven days and each day 24 hours – and the PO must be prepared to work at all these various hours, because clients' problems are not limited to normal business hours and some clients are easier to reach on evenings and

weekends. The PO has to work 40 hours a week within a flexible schedule according to clients' wishes. The PO should be able to support the client in all kind of matters. The priorities of the client are usually not the same as the priorities of the authorities or the relatives. Based on ten years of experience, the clients' priorities are usually not housing or occupation, but existential matters (Why should I live? Why has my life become a life of a mental patient? Is there any hope for change?), sexuality and problems with relatives. A PO must be able to spend a lot of time talking with their client about these kind of issues as well – and not just try to "fix" things. The clients have the right to stay anonymous with regard to the authorities. If they don't want their PO to tell anybody that they have a PO, this must be respected. PO-Skåne gets money from the community for the service, but there is a paragraph in the contract that says that the PO could refuse to reveal the name of their clients to the community.

The PO doesn't keep any records. All papers belong to the client. When their relationship is terminated, the PO must either give all papers to the client or burn or destroy them another way in the presence of the client.

The client should have the right to be anonymous to the authorities. If he doesn't want his PO to tell anybody that he has a PO this must be respected.

Author: Maths Jespersen, Member of the board of PO-Skåne, www.po-skane.org

What POs do and not do

- POs do not work in offices – they work from home with the help of telephone and internet
- POs do not limit their office hours because their clients' problems are not limited to normal business hours.
- POs should be able to support the client in all kinds of matters
- POs must be able to spend a lot of time talking with their client about problems – and not just try to "fix" things

Where Inclusive Education Takes Place

Austria (Federal Province of Styria)

With respect to inclusive education Austria is average, with the exception of Styria. There more than 80 percent of disabled pupils participate in mainstream instruction due to strong parent-teacher initiatives and political will.

After several experiments in schools, in mid-1993 legal foundations were established in Austria enabling non-disabled and disabled children to be taught in joint instruction in a mainstream primary school (§ 9, paragraph 2 of the School Organisation Act: "In the first four grades, primary school is to provide a common educational basis for all children while taking the SOCIAL INTEGRATION OF DISABLED CHILDREN into account"). This was extended to the eighth grade several years later.

Thus the joint education of disabled and non-disabled children became a mandate for the school system which had to be carried out on an organisational and educational level. Children previously considered "in need of special schooling" were no longer to be isolated or taught separately in special schools. In accordance with the Constitution of Austria, implementation of this federal legislation is the responsibility of the nine provinces and has been carried out by them in very different ways: in Austria an average of 50 percent of all children with "special educational needs" ("SEN") are integrated into mainstream schools. However, the bandwidth ranges from 36.75 in Lower Austria to 85.75 percent in Styria.

The Styrian model

In Styria a committed group of teachers and parents formed in the 1980's, having not only recognised the advantages of "integrative schooling" for disabled children, but also for highly gifted, non-disabled children as well. The association "Initiative Soziale Integration" (ISI) was to become a model for similar initiatives in other provinces. The association "Lebenshilfe Steiermark" was also very active as a lobby for the family members of disabled people.

The decision-makers at "ISI" were able to interest significant segments of the faculty in Styria in the new integrative teaching methods through intensive education and in-service-training by Teacher Training Colleges and with the help of their own advisory centre (ZIB – Zentrum für integrative Beratung).

How diversity becomes an advantage

When lessons are prepared in a differentiated manner and coordinated for all skill levels in the class (multi-level teaching), all children benefit. The highly gifted can be individually fostered and also have the chance to help peers who are less gifted or disabled. By helping, they learn more effectively themselves, as many studies show. Weaker or disabled children are oriented very strongly toward their peers and frequently make unexpected progress ("peer education").

Teachers are quite familiar with this effect: children learn from and with other children much more preferably, better and enthusiastically than they do from and with adults. But to achieve this, an entirely new teaching method is needed: while the old method is aimed at the greatest possible homogeneity of classes, in the new method diversity is to be encouraged.

In practice, inclusive instruction means that every single child is familiarised with the learning material

- in his own time
- at his own pace
- and at his own level,

with the aim of achieving different individual results. The goal: away from a performance-inhibiting, levelling teaching method, toward an individually adapted, performance-enhancing fostering of ability in which children also learn from one another. This also facilitates another developmental stage for highly gifted children and entails a considerable social learning effect for all children.

“When lessons are prepared in a differentiated manner and coordinated for all skill levels in the class, all children benefit.”

Walter Eigner

Education in practice

The organisation of inclusive education is no longer exclusively teacher-centred, but takes very different prerequisites such as the talents, strengths and weaknesses of every single child into account. There is group work, partner work (at the identical or a different level) and individual work. Priority is placed on social aspects. The slogan “strengthen strengths – compensate for weaknesses” is fitting in this regard.

Depending on the number of pupils (approx. four to five) one special education teacher is appointed full time. Children with additional care needs receive support from healthcare personnel. For one to three disabled children in the classroom there is a special education teacher available on an hourly basis. Children with sensory impairments receive support from teachers of sign language and of the blind. Inclusive classes average 20 to 25 children, four to five of them disabled. By contrast, special education classes have a lower limit (eight to 15 pupils).

Many teachers in Styria have acquired additional qualifications, with “integration teachers” having been trained there since 1985.

Vision for the future: on school for all

Unfortunately, a certain standstill has set in in Styria in the last few years. The goal, however, should remain a “school” for all with no more special schools. This should not only be sought legally and socially, but economically as well: a “parallel system” (a mainstream and a special school) is the most costly solution.

Author: Dr. Walter Eigner, Lebenshilfe Vienna, former president of Inclusion International

Summary

- 1993 Creation of federal legal foundations in Austria for the joint instruction of non-disabled and disabled children in a mainstream primary school
- Several years later extension of legal foundations to the eighth grade
- Average of disabled children integrated into mainstream schools is about 50% (Styria > 80%)
- 1980’s Formation of the “Initiative Soziale Integration” (ISI) by a group of teachers and parents for the “educational integration” of disabled children as well as highly gifted, non-disabled children. “Lebenshilfe Steiermark” was an established initiative active in this issue.

SUMMARY – THE MOST IMPORTANT RESULTS

Summary – the Most Important Results

In the final chapter the most important results from the pilot study of the Essl Social Index are summarised.

A survey based on the traffic light system renders a summary in the form of an overall point standing the best solution. In the following, all "green" lights scored two points, all "orange" lights (as well as all indications of n.a. – not applicable) one point, and all "red" lights zero points, which results in the following ranking.

Ranking	Green	Orange	Red	n.a.	Total*
1. Sweden	25	3	8	4	57
2. United Kingdom	19	14	3	4	56
3. Portugal	21	8	10	1	51
4. Spain	12	22	4	2	50
5. Denmark	15	16	9	0	46
6. Slovenia	15	15	10	0	45
7. Austria	12	18	10	0	42
8. Hungary	9	22	8	0	40
9. Germany	10	19	11	0	39
10. Switzerland**	12	10	17	1	35
USA/NY State**	10	12	15	3	35
Canada	6	14	10	9	35
13. Ireland**	8	18	14	0	34
Turkey	8	15	14	3	34
15. Romania**	7	17	16	0	31

* Green=2 points, Orange, n.a.=1 point, Red=0 points

** Did not ratify the UN Convention, which automatically yields fewer obtainable points

Such a ranking is not scientific and is to serve solely as a special form of illustration: the social indicators constructed are not of equal importance, nor do they cover the entire spectrum of the UN Convention in equal measure.

However, the resulting - non-scientific - ranking coincides to a great extent with the result anticipated by experts: the Scandinavian as well as Iberian countries are at the top, continental Europe is mid-range and Central and Eastern Europe at the bottom. The

poor performance particularly of the USA (New York State) and of Switzerland and Ireland is astonishing, but is partly attributed to the fact that eight points are automatically eliminated due to non-ratification of the UN Convention (Questions 1, 2, 3 and 44). In contrast, Slovenia and Hungary are noticeably well-positioned.

Important individual results

- Barrier-free accessibility and universal access were consistently implemented neither in buildings nor in means of public transportation. Sweden (rated the best overall) is viewed especially critically in this regard, while Spain, Portugal, Ireland and United Kingdom take the lead with respect to the barrier-free accessibility of buildings.
- As far as the recognition of rights and access to the system of justice are concerned, Austria, together with Hungary and Denmark, is one of the countries rated the best by respondents, while the NGOs in the Anglo-American countries see major deficits in this area.
- Concerning personal assistance and assistance in the workplace, Sweden clearly plays an exemplary role; for all other countries there are significant problems diagnosed in this regard.
- There are particularly wide disparities in achieving the target of an inclusive educational system. Portugal, United Kingdom and Sweden are the countries that take the lead in this regard, and the countries in Central and Eastern Europe show the biggest deficits.
- The circumstances are similar with the social indicators concerning the accessibility of the medical system.
- Regarding access to employment, Austria generally performs comparatively well together with Canada, Sweden and Portugal, while Switzerland and the USA exhibit conspicuous gaps.

- With accessibility to the range of cultural options Sweden is again dominant.
- Austria has one particularly striking deficit concerning available statistics, where – together only with Germany – it is rated “red” in all three questions.
- The USA, Ireland, Romania and Switzerland have not ratified the UN Convention; Canada and United Kingdom have ratified it, but its effectiveness is notably limited.

Where Austria has specific need for remediation

No extensive statistics on persons with disabilities in institutions, regarding the level of education, professional qualifications, etc. (Questions 41 and 42, Article 31, Page 100)

There is no general Austrian overview of where and how persons with disabilities live. In particular, there is a lack of figures concerning accommodation in institutions, the average length of stay, the number of new admissions and discharges, distribution according to age and gender, etc.

There are summary figures only in the nine federal provinces’ social reports, and even they fail to convey an overall picture because no differentiation is made based on the type of institution. Nor is there any comparable or regularly gathered data on other forms of accommodation. Compared to this, the situation is exemplary in United Kingdom, where an authority called the “Care Quality Commission” surveys such information on an annual basis.

The statistics are also unable to impart a clear picture on the level of education and employment of persons with disabilities, which is due solely to the fact that the authorities involved such as universities, the Public Employment Service and the Federal Social Welfare Office employ other definitions of disability.

This is contrasted by Ireland, United Kingdom, the USA, Switzerland and Sweden, where there is very good data concerning this issue.

The lack of such data is all the more alarming because it could significantly improve decision-making in current political issues, such as a change in the protection from dismissal or the needs-based development of residential options for persons with disabilities.

This picture is also supported by the fact that there is also no data on the share of university graduates with

disabilities, as for example in United Kingdom and Portugal (Question 29, Article 24, Page 78)

No efficient control mechanisms for limiting the stay in institutions (Question 20, Article 19, Page 60)

In Austria there is legal entitlement to a fully assisted place of residence, but no legal entitlement to a specific place of residence, nor any legal entitlement to assisted living or assistance at home. This inevitably results in many persons with disabilities living forcibly in institutions and consequently that the right to choose stipulated in the UN Convention is not implemented, also not in the form in which persons with disabilities are regularly asked whether they want to continue living there. In Denmark, Slovenia and in Sweden NGOs confirm that in practice the right to choose also exists (in Sweden, moreover, there are no institutions in the Austrian understanding of the word). In Germany and in United Kingdom the right also exists, but with gaps in implementation.

Restrictions in the right to marry, have and raise children (Question 24, Article 23, Page 68)

Although these rights are already clearly stipulated for all persons in the Universal Declaration of Human Rights of 1948, according to information from NGOs, in Austria they are also continuously violated. Persons with (mental and psychological) disabilities are frequently unable to decide of their own volition with whom they want to live. Sterilisation is systematically advised to family members and guardians in order to “at least avoid the problem of unwanted pregnancy”.

NGOs certify a better compliance with this human right in Denmark, Sweden and United Kingdom.

No ban on cage beds (Cage beds, Question 16, Article 15, Page 52)

Austria is one of the few countries in which cage beds are still legal, and not only that, also still in use, as one international report from 2009 massively criticised.

In many other countries cage beds are either prohibited or NGOs confirm that they are no longer in use.

Medical practices and pharmacies will not be barrier-free accessible for years to come (Question 32, Article 25, Page 82)

Medical practices in Austria – based on the current legal situation – are barrier-free accessible less often than in other countries. Only (very rare) group practices are generally required to be barrier-free accessible, otherwise just newly-established medical practices are. And in this case only the law for all publicly accessible buildings generally applies. Neither lawmakers nor the Austrian Medical Chamber ensure the more rapid development of general barrier-free accessibility. In United Kingdom the legal situation is different: there physicians have been required to make their practices barrier-free accessible since 2004, and according to the NGOs, this has also largely been done.

For pharmacies the situation is better in every country surveyed: in six of the 15 countries NGOs confirm that pharmacies are generally required to be barrier-free accessible. In Austria this has also applied since February 2010, but with numerous exceptions such as for “technically unwarranted expense”, the preservation of historic monuments, and for flood-endangered areas. Austria’s “restraint” is not entirely understandable, particularly as it concerns comparatively few businesses which would also be able to relocate in the event of a “technically unwarranted expense”, as a pharmacy is not bound to very specific buildings or “1A locations” anyway.

No compulsory training for architects in matters of barrier-free accessibility (Question 5, Article 8, Page 34)

Architects familiar with the practice of barrier-free construction undoubtedly plan buildings that are better and more universally accessible than those not trained in this area. Despite this, barrier-free accessibility and universal accessibility in the professional training of architects are not compulsory subjects. In addition to Austria, this also applies to most of the other countries in which the surveys were conducted, with the exception of Denmark where it is obligatory for this to be taught.

Compulsory training in the interest of awareness-raising for the needs of persons with disabilities, which Article 8 requires, would make as much sense for builders, pipefitters and other building technicians as it

would for judges and numerous public servants in administration.

Exhibits are not required to be accessible for the visually and hearing impaired (Question 39, Article 30, Page 96)

In four countries – Switzerland, Sweden, United Kingdom and Portugal – all public (and publicly funded) museums are obligated to make their exhibits accessible to persons with visual and hearing disabilities. In Austria this is not the case, but there are several museums which are very consciously setting a trend in this regard. This obviously runs contrary not only to the UN Convention, but the principle of equality as well.

No universally accessible, official versions of the UN Convention available (Question 3, Articles 2 and 49, Page 32)

Thus far Austria has published neither an official German-language binding version of the UN Convention, nor versions in audio formats or plain-language. In contrast, Germany and Hungary have been exemplary in fulfilling this UN Convention requirement, with access provided via the ministries’ websites.

Where Austria is a frontrunner

Restriction of guardianship for personnel in institutions (Question 14, Article 12/13, Page 48).

In Austria in the selection of a guardian consideration is to be taken so that the guardian is not in a relationship of dependence or in another close relationship with a hospital, home or other institution in which the disabled person resides or from which he or she receives care. This is regulated in a similarly clear manner in just three of the 15 countries.

Inclusive education in primary schools in some federal provinces (Questions 25 and 27, Article 24, Page 70 and good practice examples, Page 140)

A percentage rate of 85 in Styria for disabled primary school children who are taught in inclusive classes is an outstanding figure in international terms. Only in Portugal and in the USA (New York State) are the average percentage rates likewise over 75 percent.

Sign language as an officially recognised language (Question 15, Article 13, Page 50)

In Austria sign language is recognised in the Federal Constitution as an official language, along with the consequent right to an interpreter. There is no standardised sign language, however.

Inequalities between the federal provinces

A ranking of the nine Austrian federal provinces in the 18 relevant questions similar to the international ranking based on the point system ("green": 2 points; "orange" or not applicable: 1 point; "red": 0 points) would result in the following inner-Austrian ranking:

Ranking	Green	Orange	Red	n.a.	Total*
1. Vienna	6	8	4	0	20
2. Styria	5	6	6	1	17
Tyrol	4	9	5	0	17
4. Upper Austria	4	7	6	1	16
Vorarlberg	3	7	5	3	16
6. Burgenland	4	3	7	4	15
Carinthia	4	4	7	3	15
Lower Austria	3	6	6	3	15
9. Salzburg	3	7	7	1	14

An overall assessment based on this – (see above) non-scientific – method would show Vienna as the federal province in the clear lead. Among the other federal provinces, Styria and Tyrol have implemented considerably more in accordance with the UN Convention than Burgenland, Carinthia, Lower Austria and Salzburg, which is last in this ranking.

Differences in inclusive schooling (Questions 25 and 27, Article 24, Page 70)

At the federal level Austria has legally established the inclusive education required by the UN Convention. However, there is not only a major discrepancy between theory and practice, as the statistics (available here as an exception) show; there are also serious discrepancies between the individual federal provinces: while in Styria some 85 percent of all primary school children with disabilities attend inclusive primary schools (thus only about 15 percent attend special schools), in Lower Austria and in Vorarlberg this share is only somewhat more than a third (37.6 and 36.5 percent, respectively).

This finding is relativised in the ninth grade, however, where with regard to accessibility to vocational and higher level training the UN Convention requirements for equal opportunity are scarcely implemented, and that Austria-wide.

Varying degrees of accessibility to new, publicly accessible buildings (Questions 6 and 8, Article 9, Page 36)

A directive issued by the ÖIB (Austrian Institute of Construction Engineering) is meant as an important step toward the harmonised Austria-wide implementation of barrier-free construction methods. This directive, the implementation of which is established in the current Executive Agreement, has been ratified by just five federal provinces thus far: Burgenland, Upper Austria, Tyrol, Vorarlberg and Vienna.

There are also wider disparities within Austria regarding the implementation of the objective of the UN Convention and Austrian Federal Act on the Equalization of Persons with Disabilities to make all public buildings (thus official buildings, courts, schools, universities, etc.) barrier-free accessible by 2015. Only in Vienna has it also been established in law at the provincial level, and with a time frame extending until 2012. Styria failed to comply with an initial declaration of intent for implementation by 2010, while all other federal provinces are not even active in this regard.

Public buses with varying barriers to accessibility (Questions 9 and 10, Article 9, Page 40)

Although all urban transportation companies are gradually making their buses, trams and metros barrier-free accessible, in two points there are pronounced differences: on the one hand in the pace of introduction, which can also be measured by the disclosure of a time frame; and on the other hand that barrier-free accessibility also applies to persons with mental and psychological disabilities and in this regard means specifically the training of drivers and other personnel. The Graz public transportation company Grazer Verkehrsbetriebe states that it trains its drivers to deal at least with the visually impaired, while the Linz public transportation firm Linzer Verkehrsbetriebe does not (many other transportation companies declined to provide any information).

No data on employment in public service (Question 35, Article 27, Page 88)

One general flaw of all of the federal provinces: while the Republic of Austria regularly announces how many persons with disabilities it employs in its agencies and offices, the nine federal provinces seldom do.

"Focal point" implemented only in Vienna (Question 44, Article 33, Page 106)

At the federal level Austria has installed a "focal point" in accordance with the UN Convention which helps govern the implementation of the UN Convention. As based on the federal principle there are also important administrative authorities at the provincial level in Austria, these "focal points" are to be introduced at the provincial level as well. At the time this study went to print, this had only been carried out in Vienna.

Exemplary solutions and good practice examples for implementation of the UN Convention

Article 8 – Awareness-raising

Awareness-raising in particularly relevant professional groups (Question 5, Article 8, Page 34) in Denmark (architecture studies): For Denmark respondents confirm that the training of architects includes compulsory courses on this subject.

Article 11 – Situations of risk and humanitarian emergencies

Universally accessible early warning system (Question 12, Article 11, Page 44) in Slovenia: A special model of an SMS/e-mail/fax service for warning visually impaired persons in the event of a catastrophe exists in Slovenia. Those registered automatically receive written warnings on a mobile telephone or smartphone.

Article 12 – Equal recognition before the law
System of "personal ombudsman" in Sweden (good practice example, Article 12, Page 137): In Sweden an ombudsman system for the implementation of supported decision-making is in use, which leaves disabled persons far greater decision-making options than the well-known systems of guardianship or legal incapacitation.

Article 13 – Access to justice

Compulsory support of persons with mental and psychological disabilities in judicial proceedings in Israel (good practice example, Article 13, Page 130): In Israel since 2006 it has been established in law that persons with mental and psychological disabilities must receive special procedural support for interrogations as well as court proceedings.

Article 19 – Independent living

Financial support for personal assistance (Question 19, Article 19, Page 58) in Denmark and Sweden: In Denmark and Sweden persons with disabilities are legally entitled to receive full financial support for necessary personal assistance.

Control mechanisms for a stay in institutions (Question 20, Article 19, Page 60) in Denmark, Sweden and Slovenia: In Denmark, Sweden and Slovenia persons can decide of their own volition where and how they want to live, not only by law, but according to NGOs, in practice as well.

Article 21 – Access to information

TV programmes with subtitling or sign language (Question 22, Article 21, Page 64 and good practice example on page 136) in United Kingdom, the USA and Ireland: For subtitling, United Kingdom and the USA fulfil UN Convention requirements at a rate of nearly 100 percent and Sweden and Ireland at a rate of more than 75 percent. In Ireland the TV channel RTÉ is particularly exemplary with the subtitling of all of its programmes.

Article 24 - Education

Right to alternative testing methods at universities in United Kingdom (Question 28, Article 24, Page 74): In United Kingdom universities are obligated to issue a disability statement in which they describe all of the measures for students with disabilities, including the implementation of this law.

Official statistics on university graduates with disabilities in United Kingdom (Question 29, Article 24, Page 76)

There is outstanding data on students and the completed degrees in United Kingdom based on a student self-assessment.

Blind persons as judges (Question 30, Articles 24 und 27, Page 78) in Germany: In Germany there are several blind judges, but they are excluded from criminal law.

Article 25 - Health

Equal treatment in the payment of rehabilitation costs in Denmark, Ireland, Portugal, Sweden and United Kingdom (Question 31, Articles 25 und 26, Page 80): In Denmark, Ireland, Portugal, Sweden and United Kingdom the manner in which an accident occurs is not relevant for the coverage of rehabilitation costs. Victims of war are not given preferential treatment, nor are accidents while exercising a profession.

Barrier-free accessibility of medical practices in United Kingdom (Question 32, Article 25, Page 82): In United Kingdom all doctors have been obliged to make their practices accessible to all persons with disabilities since 2004.

Second Life simulation for improved decision-making regarding surgical procedures in United Kingdom (good practice example, Article 25, Page 134): At Brighton & Hove Hospital in UK trial is underway to help persons with mental and psychological disabilities improve decision-making skills for surgical procedures using "Second Life" simulations of their environment and an avatar.

Article 27 – Work and employment

Right to personal employment assistance in the workplace (Question 34, Article 27, Page 86) in Denmark, Portugal and Sweden: In Denmark, Portugal and Sweden persons with disabilities have a right to government-funded employment assistance.

Additional options for completion of apprenticeships in Switzerland (Question 37, Article 27, Page 92): In a report recently published by the OECD, the Swiss system of vocational training for young persons with disabilities is described as very effective. Evaluations were expected no later than in 2010.

Employment model for persons with autism in the primary labour market in Denmark (good practice example, Article 27, Page 132): The com-

pany Specialisterne established by Dane Thorkil Sonne is an outsourcing centre which tests software for software firms and employs some 35 persons with autism. An international expansion is planned.

Article 30 – Participation in cultural life

Accessibility of exhibits in public museums (Question 39, Article 30, Page 96) in Portugal, Sweden, Switzerland and United Kingdom: In Portugal, Sweden, Switzerland and United Kingdom all public museums are legally obliged to ensure universal accessibility so that their exhibits and/or content are not only accessible to persons with walking disabilities, but also to blind persons (including their guide dogs) and persons with a hearing impairment.

Reserved wheelchair areas in concert halls and sports stadiums (Question 40, Article 30, Page 98) in Sweden, Switzerland and USA (New York State): In Sweden, in Switzerland and in the United States/New York State there are always reserved and good seats for persons in wheelchairs, according to the NGOs.

Article 31 – Statistics and data collection

Meaningful statistics on the living conditions of persons with disabilities in United Kingdom (Question 41, Article 31, Page 100): In United Kingdom there are detailed and up-to-date statistics on the living conditions of persons with disabilities surveyed by the "Care Quality Commission".

Meaningful statistics on education and employment in United Kingdom, Ireland and the USA (New York State). (Question 42, Article 31, Page 102): In Ireland, United Kingdom and in the United States/state of New York State these data are gathered and publicised on a regular basis.

Article 33 –

National implementation and monitoring

Development of "focal points" for the UN Convention's implementation in Portugal, Sweden and United Kingdom (Question 44, Article 33, Page 106): In Portugal, Sweden and United Kingdom feasible "focal points" have already been established, in whose work respondents say civil society is sufficiently integrated.

Article 49 – Accessible format

Availability of UN Convention in audio and plain-language versions in Germany and Hungary (Question 3, Articles 2 and 49, Page 32): Germany as well as Hungary, where the complete range of versions of the UN Convention is available via websites (or by ordering a DVD), are pioneers in publicity in this regard.

How Austria can improve its score most efficiently

Internationally, Austria cannot be viewed as exemplary regarding the implementation of human rights for persons with disabilities. This finding is confirmed by the overall assessment as well as by the specific lack of outstanding activities.

In order to improve the traffic light ratings in the Essl Social Index, the following summarised points should be in the focus of work:

- Statistics-taking must be substantially improved, which would also have a positive impact on awareness-raising, political decision-making and media representation in the interest of persons with disabilities.
- The unequal treatment and consequent injustice resulting from the federalist system, which simultaneously impede or even prevent the spread of good practice examples, must be dealt with.
- Efforts must be made in the area of education and vocational training, where after primary school there is a lack of inclusive and concentrated support for persons with disabilities.
- In concrete terms, there must be an intensification of awareness-raising and expansion particularly of the level of knowledge of persons and professional groups such as architects, engineers and building technicians, judges, public servants and employees in transport companies, who in daily practice could improve the legal status and everyday lives of persons with disabilities the fastest and for the long term.
- Legal certainty must be established and the benefits already granted legally safeguarded, if possible at the Austrian level, thus reducing the discretionary latitude of persons or authorities as well as “decoupling it from the availability of financial means”, as is

done, for example, with family support.

- The enforceability of legally established rights must be improved, in the school system and in barrier-free construction, for example, where there are striking discrepancies between law and practice.

Lessons from conducting the survey

The first Essl Social Index survey has encountered enormous interest at home and abroad. The meaning and effectiveness of this type of survey are recognised on all sides and encourage considerable optimism for future development and expansion.

The cooperation of NGOs as well as foundations is necessary, but also a given.

Just as the Essl Social Index’s basic internationally comparative approach, the additional strategy to develop and publicise good practice examples also met with considerable approval.

The problem of lacking and ambiguous definitions of “disability” render numerous questions and social indicators impossible.

The lack of an internationally clarified and recognised definition is just as responsible for the scarcity of internationally comparable data or statistics, even at the level of the European Union. This complicates the conducting of the survey considerably.

It is impossible to employ a substantial number of significant and meaningful social indicators because they presume an internationally uniform definition of “disability”. Social indicators often had to be dispensed because the data was lacking and a scientific survey would not have been financially feasible.

The Essl Social Index for persons with disabilities can be placed on an international basis if the social indicators are more rigorously defined and the survey and publication take place using internet-based media.

Outlook for the coming years

The Essl Social Index is a freely accessible, independent source of data and facts provided to persons with disabilities by their interest representatives, administrative authorities, the media and politicians. Abroad, foundations are approached to be partners which produce comprehensive publications based on it for their own needs. More extensive partnerships are

to be developed in Austria and on an international basis.

Internationally there are associations of foundations and NGOs that have indicated interest and can have a coordinating impact. Foundations and NGOs should conduct the survey in their respective country and area of interest, which for every participating organisation would generally mean being able to produce a comparative international study with the survey efforts for their own country.

The social indicators used must be more rigorously defined and "internationalised" and a transparent platform developed for this purpose.

Good practice examples should be afforded an even greater priority and evaluated specifically in the scope of the survey and made the focus of publication.

In 2012, surveys for the ESSL Social Index for Disability Governance will be conducted in at least 30 countries. The overarching aim of the ESSL Social Indices is to enhance the awareness of politics, media and all of civil society concerning the needs of the disadvantaged (in this case persons with disabilities), and together with those affected, to identify problems as well as solutions and to play a role in the ongoing improvement of the underlying conditions. Thus the selection and description of good practice examples will acquire greater importance.

The ESSL Social Index for Persons with Disabilities is a start in this regard. In the next few years a family of indices will be developed which addresses other urgent social problems in this way as well.

ANNEX

Indicators, international

Summary of the explanations given by the foundations and NGOs who filled in the questionnaire, plus explanations of the additional editing done by the Essl Foundation.

QUESTION 1/FRAGE 1

ROM: Die Regierung hat sich verpflichtet, sie in diesem Jahr (2010) zu ratifizieren.

QUESTION 2/FRAGE 2

CDN: included an interpretive declaration and reservation on Article 12 and an interpretive declaration on Article 33 (2).

Declaration and reservation: "Canada recognises that persons with disabilities are presumed to have legal capacity on an equal basis with others in all aspects of their lives. Canada declares its understanding that Article 12 permits supported and substitute decision-making arrangements in appropriate circumstances and in accordance with the law.

To the extent Article 12 may be interpreted as requiring the elimination of all substitute decision-making arrangements, Canada reserves the right to continue their use in appropriate circumstances and subject to appropriate and effective safeguards. With respect to Article 12 (4), Canada reserves the right not to subject all such measures to regular review by an independent authority, where such measures are already subject to review or appeal.

Canada interprets Article 33 (2) as accommodating the situation of federal states where the implementation of the Convention will occur at more than one level of government and through a variety of mechanisms, including existing ones."

UK: Reservations: "Work and Employment – Convention Article 27 mainly

The United Kingdom accepts the provisions of the Convention, subject to the understanding that none of its obligations relating to equal treatment in employment and occupation, shall apply to the admission into or service in any of the naval, military or air forces of the Crown. Education – Convention Article 24 Clause 2 (a) and 2 (b)

The United Kingdom reserves the right for disabled children to be educated outside their local community where more appropriate education provision is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated.

Liberty of Movement: The United Kingdom reserves the right to apply such legislation, insofar as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, as it may deem necessary from time to time.

Equal Recognition Before the Law – Convention Article 12.4: The United Kingdom's arrangements, whereby the Secretary of State may appoint a person to exercise rights in relation to social security claims and payments on behalf of an individual who is for the time being unable to act, are not at present subject to the safeguard of regular review, as required by Article 12.4 of the Convention and the UK reserves the right to apply those arrangements. The UK is therefore working towards a proportionate system of review."

Declaration: "Education – Convention Article 24 Clause 2 (a) and (b)

The general education system in the United Kingdom includes mainstream and special schools, which the UK government understands is allowed under the Convention."

QUESTION 3/FRAGE 3

AT: Tel. Mag. Schulze (Vorsitzende des Monitoringausschuss): Österreich hat keine Übersetzung der UN-Konvention in deutscher Sprache. Weder in einfacher Sprache, Gebärdensprache noch als Audio-Text. Wenn veröffentlicht auf der Website von Parlament oder Bundesministerium für Soziales.

CH: Die UN-Konvention steht in allen drei Amtssprachen der Schweiz auf der offiziellen Website des Eidgenössischen Büros für die Gleichstellung von Menschen mit Behinderungen zur Verfügung. Auf Deutsch steht sie zudem auch in einfacher Sprache zur Verfügung. Es besteht zudem ein Link zur ENABLE Website der UNO. Hingegen gibt es keine Versionen als Audio-Text oder in Gebärdensprache.

<http://www.edi.admin.ch/ebgb/00564/00566/00569/01680/index.html?lang=de>

DE: http://www.bmas.de/portal/25970/2008_04_30_rechte_von_menschen_mit_behinderungen.html

Ja, alle Versionen sind auf der Seite des Bundesministeriums für Arbeit und Soziales vorhanden (als bestellbare DVD).

DK: About to be produced.

HU: <http://www.szmm.gov.hu/main.php?folderID=16485>

IRL: Convention can be requested in accessible format and also easy-to-read/plain-language version available

Convention available at this website: <http://www.pobail.ie/en/DisabilityPolicyDivision/>

SLO: Anmerkung Karmen Horvath/bauMax Humanprogramm Slovenia: Eine SLO-Version auf einer der Staatlichen Seiten gibt es nicht. Es gibt die Übersetzung auf dem Link: <http://www.un.org/disabilities/documents/natl/slovenia.doc>; Antwort vom Ministerium: Auf den unteren Links kann man eine leicht lesbare Version der UN-Konvention in SLO-Sprache auf deren Seiten finden.

Eine Audio Version erhält man, wenn man beim Ministerium darum bittet.

http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/konvencija_invalidi_lahki_vodnik.pdf

http://www.zdvis.si/uploads/konvencija%20o%20pravica%20invalidov_lahko%20berljiv%20vodnik%5D.pdf

UK: There is an easy-to-read version of the Convention on the Government Office for Disability Issues website. <http://www.officefordisability.gov.uk/working/un-convention/index.php>

USA: One can find many non-state websites with plain-language versions of the Convention. One such example can be found at the Harvard Law School Project on Disability's website.

QUESTION 4/FRAGE 4

Additional Remarks/Ergänzende Erläuterungen:

This question was not analysed because neither statistics nor comparable information are available. Further, the question was omitted because it became clear that different definitions of disability would bias the results.

Diese Frage wurde nicht in die Auswertung aufgenommen, da die meisten Länder darüber keine Aufzeichnungen führen. Weiters spiegelte sich in den Antworten die Problematik der Definition von Behinderung wider.

QUESTION 5/FRAGE 5

AT: Mag. Schmalzer (Bundeskammer der Architekten und Ingenieurkonsulenten): Die Universitäten können die Studienpläne für die Architekturstudien autonom festlegen. Das ZT-Gesetz verlangt keine Ausbildung in Barrierefreiheit. Unis haben keine Pflichtfächer in Ö.

CH: (1) Email am 27.5.10 an Fr. Maeder (Sekretärin) vom Bund Schweizer Architekten

(Fragen wurden von mehreren Architekten beantwortet) Kurse, die sich mit dem Design für Menschen mit Behinderung, z. B. barrierefreien Gebäuden und barrierefreier Zugänglichkeit, beschäftigen, sind weder verpflichtend noch optional. (2) Es gibt keine nationale Verpflichtungen der Architekturschulen zum Thema Hindernisfreies Bauen, geschweige den zur rechtlichen Situation. Dies gibt es aber auch nicht zu anderen rechtlichen Bereichen wie Baurecht, Vertragsrecht etc. Die Schulen sind ziemlich frei in der Gestaltung und Priorisierung der Lernprogramme. In den ca. 15 Architekturschulen in der Schweiz ist es sehr unterschiedlich, ob und wie hindernisfreies Bauen im Unterricht vorkommt. In ein bisschen mehr als der Hälfte der Schulen ist dies jeweils der Fall.

DE: Telefonat am 9. 6. mit Dipl.-Ing. Oliver Heiss der Bay. Architektenkammer: Die Vermittlung von speziellen Bedürfnissen von Menschen mit Behinderung wird an deutschen Hochschulen zwar ernst genommen, dennoch ist es momentan (und wird es auch in Zukunft) kein fixer Bestandteil des Lehrplans. Kurse werden jedoch an allen Universitäten angeboten.

IRL: There is no statutory requirement obliging architects to receive training covering accessibility to those with disabilities. The relevant third-level institute determines course content.

TR: Izmir Chambers of Architecture publishes Disabled Access Guide and Administration for Disabled People published some books regarding this issue. There are also some universities carrying out studies on this issue.

UK: Resources for students on inclusive design are available e.g. from the Royal Institute of British Architects (RIBA) and the Centre for Excellence in Teaching and Learning through Design (CETLD), but these are not compulsory.

USA/New York State: Training is available, but not compulsory. The extent to which architecture students are encouraged to learn about accessibility issues varies at each university in New York State (both public universities and private universities have varying levels of emphasis on this topic). At Syracuse university (a private University in Syracuse, New York), an ongoing project called "Connective Corridors" is working to build an accessible pathway from the university to downtown Syracuse. The project has brought together students from various fields, but project coordinators have brought in many architecture students to help design the accessibility components (and this has provided great training for these students on accessibility issues.)

QUESTION 6/FRAGE 6

AT: Behindertengleichstellungsgesetz, ABER: Die Behörden kontrollieren nach der Baubewilligung die barrierefreie Ausführung nicht. Sie werden erst aktiv, wenn ein Betroffener auf Diskriminierung klagt. Das geschieht viel zu selten, da es neben der Beseitigung der Barriere nur um Schadenersatzforderungen geht. In anderen Ländern der EU (etwa Spanien) liegt die Verantwortung der Kontrolle bei den Behörden. Barrierefreiheit ist auch nur bei bewilligungspflichtigen Bauvorhaben vorgeschrieben. Es gibt keine Verpflichtung zu Um- oder Nachrüstungen.

CDN: As a federated country there is more than one government level responsible for physical accessibility. Laws vary across the country but there are in place basic accessibility requirements.

CH: (1) Bund Schweizer Architekten: JA: Die Gesetzgebung schließt alle Arten von Behinderungen ein und deckt alle Neubauten mit öffentlicher Zugänglichkeit ab. (2) Das Behindertengleichstellungsgesetz (BehiG SR 151.3) ist am 1. Januar 2004 in Kraft getreten. Es findet sowohl auf Neubauten, als auch auf bewilligungspflichtige Renovationen Anwendung, soweit es sich entweder um öffentlich zugängliche Bauten (also auch Kinos), um Wohnbauten mit mehr als 8 Wohneinheiten oder um Bauten mit mehr als 50 Arbeitsplätzen handelt. Bei öffentlich zugänglichen Bauten muss sowohl der Zugang als auch die Benutzbarkeit gewährleistet sein. Die einzige Grenze ist der Grundsatz der Verhältnismäßigkeit (Art. 11 und 12 BehiG). Alle Behinderungsarten sind umfasst.

DE: Tel. am 9. 6. mit Dipl.-Ing. Oliver Heiss der Bay. Architektenkammer: Neu errichtete Gebäude müssen barrierefrei gestaltet sein (allerdings nur für Rollstuhlfahrer), neue DIN-Norm ist in finaler Klärung und soll 11/2010 in Kraft treten. Diese Norm schließt dann auch Sehbehinderungen mit ein.

HU: Öffentliche Gebäude müssen nach den ungarischen Gesetzen barrierefrei sein, sind es aber leider trotzdem nicht immer.

IRL: (1) accessible to persons with disabilities'. A public building for the purposes of the Act means 'a building or that part of a building to which members of the public generally have access and which is occupied, managed or controlled by a public body'. The Disability Act is available at <http://www.oireachtas.ie/documents/bills28/acts/2005/a1405.pdf> (2) Part M of the Building Regulations (2000) requires that adequate provision be made to enable persons with disabilities to safely and independently access and use a building. Part M of the building Regulations is available at <http://www.environ.ie/en/DevelopmentandHousing/BuildingStandards/>; Section 25 of the Disability Act requires that the Department ensure that its public buildings are, as far as practicable, made accessible to persons with disabilities not later than 2015 – however this is for public buildings and does not cover private buildings.

UK: Part M Schedule 1 of Building Regulations 2000 - as amended by the Building (Amendments) Regulations 2003.

USA/New York State: At the federal level, Title III of the Americans with Disabilities Act prohibits discrimination against persons with disabilities in the full and equal enjoyment of public accommodations, 42 U.S.C. § 12182(a) (2000). Guidance for accessibility standards can be found in the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Additionally, New York State law requires public accommodations to be accessible to persons with disabilities. See New York State's Human Rights Law § 296.2.

Additional Remarks/Ergänzende Erläuterungen:

This question asked for the legal situation, as this allowed for clearer, and objective, answers. A question about the everyday situation, in practice, would not have achieved this. Analysing the answers, it became clear that law and practice differed substantially. One of the reasons is that, in countries like Austria, universal accessibility is not legally mandated. If a building is not universally accessible, the only recourse for those who feel that they are disadvantaged is to file for compensation payments. The answers to the question were also blurred in another way, as some respondents obviously ignored accessibility for persons with visual impairments. The Essl Foundation, therefore,

changed the colour decisions of the respondents in some cases (see below). This question has to be reshaped in forthcoming surveys. In dieser Frage wurde nach der rechtlichen Situation gefragt, weil das eine klarere und objektivere Antwort ermöglicht als die Frage nach der Praxis der Barrierefreiheit. Bei den Antworten stellte sich heraus, dass Recht und Praxis häufig deutlich auseinander liegen. Dies liegt unter anderem daran, dass in manchen Staaten wie Österreich kein Recht auf Herstellung der Barrierefreiheit besteht, sondern nur auf Schadenersatz für Schäden, die durch die fehlende Barrierefreiheit entstehen.

Eine weitere Unschärfe in den Antworten entstand dadurch, dass von den Befragten in manchen Fällen die Barrierefreiheit nicht für alle Arten von Behinderungen verstanden wurde.

Die Essl Foundation hat deswegen manche Farbentscheidungen der Befragten verändert und entgegen der Fragestellung auch auf die Praxis Bezug genommen: USA von GRÜN auf "orange" (Unsicherheit über die Erfassung von Sehbehinderung), UK von „orange“ auf „grün“, HUN von „grün“ auf „orange“ (große Unterschiede zwischen Gesetz und Praxis), DE auf „orange“ (nur Gehbehinderung). In Österreich wurde „orange“ gewählt, da es in der Praxis laut NGOs erhebliche Probleme gibt.

In kommenden Erhebungen ist eine Schärfung dieser Frage erforderlich.

QUESTION 7/FRAGE 7

Additional Remarks/Ergänzende Erläuterungen:

The answers to this question were not analysed, as it turned out that there are no major differences in the requirements for universal accessibility for all newly constructed public buildings and for newly constructed public toilets.

Diese Frage wurde nicht weiter analysiert, weil es sich im Zuge der Erhebung herausstellte, dass es keine wesentlichen Unterschiede zwischen der generellen Barrierefreiheit von Gebäuden (Frage 6) und öffentlichen Toiletteanlagen im Speziellen gibt.

QUESTION 8/FRAGE 8

AT: ÖAR: Das Bundesbehindertengleichstellungsgesetz aus dem Jahr 2006 schreibt vor, dass mit Ende 2015 alle öffentlich zugänglichen Gebäude (Supermärkte, Museen, Kinos, Frisöre usw.) barrierefrei zugänglich sein müssen. Jedoch gilt auch eine Unzumutbarkeitsgrenze. Eine Judikatur dazu gibt es bis dato noch nicht. Siehe auch ergänzende Erläuterungen weiter unten im Text.

CH: Eine solche Frist gibt es nur für Bauten und Anlagen des öffentlichen Verkehrs (Art. 22 BehiG). Diese müssen bis 2024 spätestens zugänglich sein (es sind Vorschläge gemacht worden, diese Frist zu verlängern). Vor Ablauf der Frist besteht aber die Möglichkeit, Benachteiligungen von Menschen mit Behinderung vor der zuständigen Behörde oder vor Gericht zu beanstanden (Art. 7 Abs. 2 sowie Art. 9 Abs.3 lit. b, c und d). Die Übergangsfrist wird im Rahmen der Verhältnismässigkeitsprüfung berücksichtigt (Art. 12 Abs. 2 BehiG).

DE: Oliver Heiss: Nein, für Bestandsbauten wird es auch in Zukunft keine Regelung geben.

HU: In der Vergangenheit gab es mehrere Zeitrahmen und Fristen, die aber alle nicht eingehalten wurden. Zurzeit gibt es keinen Zeitrahmen mehr.

IRL: Section 25(3)(a) of the Disability Act states that 'buildings, which are public buildings on the commencement of this section or which become public buildings after such commencement, shall be brought into compliance with Part M...not later than 31 December 2015'.

ROM: Nur einige öffentliche Gebäude sind betroffen und diese nur für Menschen in Rollstühlen.

SLO: Rules from 1999 and amendments to the regulations in 2003 and 2009.

SWE: It was planned to be accessible by 2010; besides the national action plan, there are also laws aiming at making Sweden more accessible. The big problem is that there is not always compliance with the laws. The Swedish Disability Federation says that the Swedish government must take urgent action to ensure compliance with the laws.

UK: According to the Disability Discrimination Act 1995, since 2004 anyone providing a service has had to address physical features which make it difficult for persons with disabilities to use their services (including those who provide goods or facilities.)

USA/New York State: There is no legal time frame per se; however ADA Title III requires that barriers preventing accessibility must be removed from existing facilities (those in existence prior to January 26, 1993) if "readily achievable". "Readily achievable" is defined as "easily accomplishable and able to be carried out without much difficulty or expense. Americans with Disabilities Act, 42 U.S.C. § 12183; 36 C.F.R. § 36.401 (a)(1). Accessibility standards are set by the ADA Accessibility Guidelines for Buildings and Facilities (ADAAG) regulations.

Additional Remarks/Ergänzende Erläuterungen:

This question probably led to biased results because of the term "public access". While the question clearly asks for all buildings that are publicly accessible, some respondents may have taken this to refer only to buildings that belong to the public.

Bei dieser Frage wurde von den Befragten möglicherweise der Begriff „öffentlich zugängliche Gebäude“ unterschiedlich interpretiert (zB Rumänien). Obwohl nach der Formulierung eindeutig alle Gebäude umfasst sind, die für die Öffentlichkeit zugänglich sind, wurden darunter möglicherweise nur Gebäude verstanden, die der öffentlichen Hand gehören.

In Österreich wurde kurz vor Drucklegung dieser Pilotstudie eine Gesetzesänderung angekündigt, die beinhaltet, dass der Zeitrahmen, in dem öffentliche Gebäude barrierefrei zugänglich gemacht werden müssen, von Ende 2015 auf 2019 nach hinten verlegt wird. Auf Grund dessen wurde die Ampelfarbe von „grün“ auf „orange“ gewechselt, obwohl das Gesetz noch nicht beschlossen war.

QUESTION 9/FRAGE 9

AT: (1) Derzeit müssen bei allen Busbetreibern neuangeschaffte Busse barrierefrei zugänglich sein, spätestens ab 2015 allen Bussen. (2) Nur einige Busse haben Platz für zwei (2) Rollstühle oder manche Busse sind für Menschen mit Behinderung nicht zugänglich bzw. der Fahrer ist nicht geschult.

CDN: There are jurisdictional issues with this question. Public transit, including in the State capital, is operated by the municipal government.

CH: Tel. bei Bernmobil am 26. 5.: Grundsätzlich sind alle Bus- und Tram-Linien (tagsüber) sog. „Niederflurfahrzeuge“ und mit Rampen nach Aufforderung selbstständig betret- und verlassbar. Teilweise kann es jedoch vorkommen, dass aufgrund eines Ausfalls ein anderes Fahrzeug zum Einsatz kommt. Mitarbeiter haben alle eine (kontinuierliche) Schulung im Umgang mit Menschen mit Behinderung; leider sind (noch) nicht alle Haltestellen behindertengerecht ausgestattet. Fortschritte bzgl. Barrierefreiheit werden jährlich im Erfolgsbericht vermerkt. (www.brh-bern.ch/erfolgsbericht.pdf).

Displays für Hörbehinderte sowie Tonansagen und spezielle Ticketautomaten für Sehbehinderte sind vorhanden.

Zürich: ZVV gab Auskunft, dass tagsüber alle SBahnen (bis auf einige wenige in den Morgen-/Abendstunden) barrierefrei und autonom zugänglich sind, Busse sind zum allergrößten Teil barrierefrei über eine Rampe zugänglich, die Tramlinien nur teilweise; bis 2015 sollen alle SBahnen, Busse und Tramlinien komplett mit barrierefrei zugänglichen Fahrzeugen ausgestattet sein.

DE: (1) „orange“ – „grün“ wäre angemessen, da wohl nicht 100% aller Busse Niederflerbusse bzw. barrierefrei ausgestattet (für Seh- und Hörbehinderte) wären, mittlerweile jedoch schon mehr als 80%. (2) EF: BVG verwies auf folgenden Bericht: <http://www.berlin.de/imperia/md/content/sen-soziales/menschenmitbehinderung/barrierefreiheit/abschlussberichtfag.pdf?start&ts=1280933745&file=abschlussberichtfag.pdf>; Hier

ist festgehalten, dass die Fahrer im Umgang mit „mobilitätsbehinderten“ Fahrgästen geschult seien, geistige Behinderung wird allerdings nicht erwähnt (S.14). Alle Busse der BVG sind barrierefrei nutzbar – sowohl für Fahrgäste mit Kinderwagen, Rollator oder Gepäck, als auch für Rollstuhlnutzer. Sehbehinderte Fahrgäste können sich aufgrund der kontrastreich gestalteten Innenräume und der Innenansagen im Fahrzeug gut orientieren. Hörbehinderten Fahrgästen stehen Displays im Fahrzeug zur Verfügung, auf denen die nächsten Haltestellen angezeigt werden. (www.bvg.de/index.php/de/3883/name/Barrierefrei%2Bdurch%2BBerlin/textversion/1/article/12075.html).

HU: Busse mehrheitlich schlecht zugänglich für Menschen mit Behinderung, aber die Fahrer haben alle eine Ausbildung, wie sie mit Menschen mit Behinderung umgehen/ihnen helfen müssen.

IRL: At the end of 2008, Dublin Bus had a fleet of 1182 buses. 74% of these buses were low-floor wheelchair accessible with 105 of the 200 routes classified as wheelchair accessible. (Department of Transport, Sectoral Plan for Accessible Transport under the Disability Act 2005 – First Progress Report: 2006 – 2009; www.transport.ie/viewitem.asp?id=12183&lang=ENG&loc=1512)

SPA: There are 706 publicly accesible buses in the capital (fefa)

UK: All buses can carry one wheelchair and wheelchair users are entitled to free travel on buses.

USA: New York City and Albany: Bus drivers are not trained on how to assist persons with disabilities. They do not always say the location of stops out loud, making it difficult for people who are blind to know where to get off.

Additional Remarks/Ergänzende Erläuterungen:

Because of its research methodology, in Austria (Vienna), Switzerland (Bern, Zurich) and Germany (Berlin), the Essl Foundation also asked this question of the public transport companies themselves. This was, however, not the case in other countries. This may lead to a slight bias in the answers, compared with countries where only NGOs and foundations are asked.

Aufgrund der Recherchemethode hat die Essl Foundation in Österreich (Wien), in der Schweiz (Bern, Zürich) und in Deutschland (Berlin) auch die städtischen Verkehrsbetriebe selbst dazu befragt, nicht aber in den anderen Ländern. Dies kann zu leicht verzerrten Ergebnissen führen.

QUESTION 10/FRAGE 10

AT: Tel. Hr. Anderl, ÖBB, Barrierefreies Reisen: Im Behindertengleichstellungsgesetz Thema: „Ja, ABER“-Punkt Verkehr: Mit einer Übergangsfrist bis 2015 müssen alle Bahnhöfe, die mehr als 2.000 Personen täglich frequentieren, alle Landeshauptstädte und Bezirkshauptstädte barrierefrei umgebaut sein. Reisen wird einfacher, weil durch Umsteigeknoten und ÖBB-Busse regional nutzbarer. Es ist nicht finanzierbar, ganz barrierefrei zu werden (viel geht mit Umbaumaßnahmen einher). ÖBB haben internes Regelwerk mit Behindertenorganisationen entwickelt. 2008 TSIPRM (technische Spezifikation der Interoperabilität von Personen mit reduzierter Mobilität) ist eine EU-Verordnung, die das Bahnsystem harmonisieren will. (2) Alle Bahnsteige des größten Bahnhof der Hauptstadt sind nicht nur für Rollstuhlfahrer, sondern auch für Menschen mit Sehbehinderung zugänglich, d. h. es gibt keine Treppen, nur Rampen mit geringer Steigung, zugängliche Fahrstühle und Laufbänder. Außerdem gibt es Tafeln in Braille-Schrift und deutlich hörbare Ansagen. (3) Begehungen von Experten der Hilsgemeinschaft fanden am Bahnhof Wien Meidling statt und die Barrierefreiheit der Einrichtungen ist gegeben.

CH: Ja. Sie haben zwar nicht die richtige Höhe, aber sie sind barrierefrei zugänglich (mit Rampe und mit Lift). Der Einstieg für Rollstuhlfahrende in die Züge ist gewährleistet, aber nur mit Personalhilfe (ganze Betriebszeit). Leitsysteme für Blinde gibt es.

DE: www.kobinetnachrichten.de/cipp/kobinet/custom/pub/content/lang,1/oid,17579/ticket,g_a_s_t

IRL: Since 2000, all new railway stations have been designed and constructed in accordance with accessibility standards/international good practice. In addition, an accessibility refurbishment programme to make existing railway stations accessible was underway on a railway line by railway line basis'. Ibid. Two of the main railway stations in Dublin are Heuston Station and Pearse Station. At Heuston Station there is level ticket office access, level platform access, accessible toilet facilities and a ramp for train access. Information from Irish Rail website. Available at http://www.irishrail.ie/your_journey/your_station.asp?letter=H&action=showdetail&station_id=71; Pearse Station provides accessible toilet facilities and a ramp for train access. Information from Irish Rail website. http://www.irishrail.ie/your_journey/your_station.asp?letter=P

SLO: We have a rule but for the blind and partially sighted there is no access yet.

SWE: The Swedish government must take urgent action to ensure compliance with the laws.

UK: The government has published an "Access for All" strategy to make selected stations accessible between 2006-2016. This is currently under review following a change of UK government in May

QUESTION 11/FRAGE 11

Additional Remarks/Ergänzende Erläuterungen:

This question was not analysed, because, after screening the answers, the Essl Foundation was not sure if it is really to the advantage of a person with a disability when there is no need to register in advance. It seems to be more pragmatic if all necessary services are guaranteed on arrival, and this is could be better assured if a person with a disability actually does register in advance.

Die Frage wurde aus der Bewertung genommen, weil die Essl Foundation aufgrund der einlangenden Antworten nicht mehr die Gewissheit hatte, dass es ein Vorteil für Menschen mit Behinderung ist, wenn sie sich vor Antritt einer Zugreise nicht anzumelden brauchen. Pragmatischer erscheint, dass alle notwendigen Services garantiert vorhanden sind, und dies wiederum scheint bei vorheriger Anmeldung eher gegeben.

QUESTION 12/FRAGE 12

AT: BMI, Fr. Ita, Email: JA. Im Falle einer Alarmierung (bundesweite Sirenenauslösung) wird die Bevölkerung zeitgleich über Radio und Fernsehen über den Alarmierungsgrund und das erforderliche Verhalten informiert. Im Fernsehen erfolgt diese Information auch über Laufleisten in visueller Form. Dadurch ist gewährleistet, dass auch Menschen mit Hörbehinderung Zugang zu dieser Information haben. (1) In Richtlinien zur internationalen Katastrophenhilfe müssen Menschen mit Behinderungen in allen Bereichen und bereits in der Planung inkludiert werden. Bisher ist dies nicht geschehen.

CDN: There have been public consultations but I'm not aware of the system being finalised and implemented.

CH: Auf Anregung der Behindertenorganisationen wurde das Problem mit der Bundesverwaltung angegangen und eine Lösung ist zurzeit in Bearbeitung.

IRL: (1) The government committee charged with planning for a national emergency have indicated they will keep people informed through TV and radio announcements. As such, IF the TV announcements were subtitled...they would be accessible to most people with hearing loss who had access to a TV. (2) There is no national emergency early warning system as such and so the question is not applicable.

SLO: We have Call center for Deaf and Hard of Hearing and they would inform all the mobile phone users.

Verband der Dolmetscher für die slowenische Zeichensprache und Verbindung der Vereine für taube und schwerhörige Menschen, haben ein Call Center für Menschen mit Hörschwäche ins Leben gerufen. Das Call Center ermöglicht allen Schwerhörigen Menschen, dass sie über

Videotelephonie, Handy oder PC in slowenischer Zeichensprache kommunizieren oder Informationen bekommen können. Diese können SMS senden, Email oder Fax. Auf der anderen Seite antworten ihnen Dolmetscher und intervenieren bei Institutionen im Auftrag der Schwerhörigen so fern sie das wünschen. Für die Nutzung des Call Centers muss sich die Person registrieren und zwar über <http://kc.tolmaci.si>.

UK: Covered by the Civil Contingencies Act 2004 - and the secretariat which implements this Act. This recommends many methods of communication.

USA/New York State: The Federal Communication Committee (FCC) implements rules that require broadcasters, cable operators, and other multi-channel video programming distributors to make emergency information (e.g., pertaining to storms, school closings, and other emergencies) that they provide to their viewers accessible to persons with hearing and vision disabilities. (47 CFR § 79.2) The FCC also designed the Emergency Alert System (EAS) so officials can quickly send out important emergency information targeted to a specific area. EAS also accounts for the needs of special populations such as the deaf and those with special language requirements. http://www.weather.gov/os/NWS_EAS.shtml

QUESTION 13/FRAGE 13

AT: Fr. Rott, Verein Sachwalterschaft, Email: „JA.“ Gemäß § 268 (3) ABGB ist der Sachwalter je nach Ausmaß der Behinderung mit zu besorgenden Angelegenheiten zu betrauen . . . Hinweis 1: In Ö wurde 1984 die Entmündigungsordnung durch das Sachwalterrecht abgelöst, sodass der Begriff Entmündigung nicht mehr aktuell ist. Hinweis 2: Immer jedoch (!) § 280 (1) ABGB: Die behinderte Person kann innerhalb des Wirkungskreises des Sachwalters ohne dessen . . . Einwilligung rechtsgeschäftlich weder verfügen noch sich verpflichten.

CH: Ja. Heute unter dem Begriff „Beistandschaft“ (Art. 392.ff ZGB). Im neuen Erwachsenenschutzrecht werden die Beistandschaften auch eine teilweise oder nur punktuelle Einschränkung der Handlungsfähigkeit ermöglichen. Dies sowohl bei der rechtlichen Vertretung wie auch bei Einkommens- und Vermögensverwaltung. Das Erwachsenenschutzrecht ist vom Parlament verabschiedet und tritt voraussichtlich 2013 in Kraft.

DE: §1896 BGB (1) Kann ein Volljähriger aufgrund einer psychischen Krankheit oder einer körperlichen, geistigen oder seelischen Behinderung seine Angelegenheiten ganz oder teilweise nicht besorgen, so bestellt das Betreuungsgericht auf seinen Antrag oder von Amts wegen für ihn einen Betreuer.

(2) Ein Betreuer darf nur für Aufgabenkreise bestellt werden, in denen die Betreuung erforderlich ist.

IRL: A particularly restrictive system known as the wardship system operates in Ireland in cases where a formal determination of legal capacity is required. This is governed by the Lunacy Regulation (Ireland) Act 2871. The legal effect of being made a ward of court is that the court is vested with jurisdiction over all matters in relation to their person estate. A person who is made a ward of court loses the right to make any decisions about their person or property. The Scheme for a new Mental Capacity Bill announced in 2008 would see the wardship system abolished and the Lunacy Regulation (Ireland) Act replaced. Under the new bill, capacity will be determined by focusing on the particular time when a decision has to be made and on the particular matter to which a decision relates. This will constitute a significant departure from the current situation whereby a finding of incapacity applies to every decision a person may make. Under the bill, capacity is defined as the ability to understand the nature and consequences of a decision in the context of available choices at the time the decision is to be made. The Mental Capacity Bill has not yet been published. The Scheme of the Mental Capacity bill is available at http://www.justice.ie/en/JELR/Pages/Scheme_of_Mental_Capacity_Bill_2008

UK: Sections 7 & 37 Mental Health Act 1983

USA/New York State: Yes - Under New York's Mental Hygiene Law, guardians may only fulfil the duties assigned to them by the court. In many cases, the court assigns partial guardianship over certain matters, allowing the person with a disability to dictate other decisions in their life. See N.Y. Mental Hyg. Law §§ 81.20

QUESTION 14/FRAGE 14

AT: Fr. Rott, Verein Sachwalterschaft, Email: „JA“ § 279 (1) ABGB – . . . Bei der Auswahl des Sachwalters ist . . . darauf Bedacht zu nehmen, dass der Sachwalter nicht in einem Abhängigkeitsverhältnis oder in einer anderen engen Beziehung zu einer Krankenanstalt, einem Heim oder einer sonstigen Einrichtung steht, in der sich die behinderte Person aufhält oder von der sie betreut wird.

CH: Es gibt keine besonderen Einschränkungen. Beistände müssen für die vorgesehenen Aufgaben fachlich und persönlich geeignet sein. Eine Interessenkollision wäre ein Hinderungsgrund. Lehnt die betroffene Person einen Beistand ab, muss diesem Wunsch soweit tunlich entsprochen werden (neues Erwachsenenschutzrecht).

DE: Klaus Lachwitz, Inclusion Europa, Germany beim Symposium on the legal capacity of persons with disabilities in light of the UN Convention on the Rights of Persons with Disabilities (CRPD) 4 June 2009, Brüssel; organisiert von European Foundation Center and European Disability Forum.

IRL: No there are no restrictions, the court decides who is the best person to make decision

UK: s7(5) Mental Health Act 1983 - Guardianship applications in which a person other than local social services authority is named as guardian shall be of no effect unless it is accepted on behalf of the person by the local social services authority.

USA – New York State: Unless the court finds that no other person is available or willing to serve as guardian, one other than a relative, who is a provider, or the employee of a provider, of health care, day care, educational, or residential services to the incapacitated person whether direct or indirect, may not serve as guardian for an incapacitated person. N.Y. Mental Hyg. LAW § 81.198 (e) (2).

Additional Remarks/Ergänzende Erläuterungen:

The Essl Foundation opted for a "red" light, because of the speech given by Klaus Lachwitz at the European Disability Forum, although some of the German NGOs opted for an "orange" light.

Die Essl Foundation hat die Ampelfarbe in Deutschland mit ROT vergeben, aufgrund der Ausführungen von Klaus Lachwitz beim European Disability Forum, entgegen der Farbgebung anderer NGOs in Deutschland.

QUESTION 15/FRAGE 15

AT: Tel. Mag. Hartmuth Haller, BMJ (Zivilverfahren): Es gibt die Bestimmung: Wenn jemand Gebärdensprache spricht, dann hat er ein Recht auf einen kostenlosen Übersetzer. In der Bundesverfassung 8a Abs. 3: Österreichische Gebärdensprache ist als eigenständige Sprache anerkannt.

CH: Gebärdensprache wird nicht in der Bundesverfassung als offizielle Sprache anerkannt. Das verfassungsrechtliche Diskriminierungsverbot in Art. 8 Abs. 2 BV erteilt dem Einzelnen aber einen Anspruch auf einen Gebärdendolmetscher im Verfahren vor einer Behörde. Auch aufgrund der verfassungsrechtlichen Garantien der verfahrensrechtlichen Kommunikation („rechtliches Gehör“, Art. 29. Abs. BV) haben hörbehinderte Menschen auch ein Recht auf einen Gebärdendolmetscher. Das BehiG verlangt zudem, dass staatliche Dienstleistungen für Menschen mit Behinderung zugänglich sind (Art. 2 Abs. 4 in Zusammenhang mit Art. 3 lit. e und Art. 8 Abs. 1 BehiG). Und somit auch unter gewissen Voraussetzungen Gerichtsverhandlungen.

IRL: (1) Ireland does not recognise ISL (Irish Sign Language) as an official language. However, under the Disability Act, public facilities should be accessible (unless impracticable), and public service providers must make a 'reasonable accommodation' to make public services accessible. In practice, this means that courts do pay for interpreters when requested to do so, (as to refuse to do so would generally be seen to be unreasonable), but it is not an explicit right. (2) Sign language is not an official language of the State and there is no statutory requirement to provide sign language interpretation for those with a hearing impairment.

SLO: Yes - In 2002 the Act on the Use of Slovenian Sign Language was adopted. The act defines the Slovenian sign language as a visual sign system with a specific placement, position, orientation and movement of hands and fingers, and facial expressions. By means of this act, sign language for the deaf gets a different role. The Act on the Use of Slovenian Sign Language defines Slovenian sign language as a visual sign system with a specific placement, position, orientation and movement of hands and fingers, and facial expressions. According to the general provisions of the law, the deaf have the right to use Slovenian sign language and to be informed by means of appropriate techniques.

The general provisions also determine the extent and manner of exercising the right to a sign language interpreter to ensure equal integration of the deaf in life and working environment. Sign language is defined as the language of communication of persons or a natural means of communication amongst the deaf. By law, a deaf person is someone who has no hearing whatsoever or a person who communicates by using sign language as their natural language. All these provisions define sign language as a language equivalent to verbal language of the majority, although Slovenian sign language has not yet been standardised.

TR: According to the "2002 People With Disabilities in Turkey Survey", there are nearly 250.000 hearing impaired people in Turkey. Turkish Social Services and Child Protection Institution (SHCEK) wanted to recruit one sign-language translator for each city in order to improve the services to hearing-impaired people and to be used in cases such as courts, police stations, etc. when necessary. The applications for those positions were evaluated by a scientific delegation composed of representatives from Republic of Turkey Prime Ministry Administration of Disabled People (OZIDA), Turkish Language Agency (TDK), Federation of Hearing-Impaired Associations and Turkish Social Services and Child Protection Institution (SHCEK). At the end of the evaluation process, 25 applicants were selected and recruited as sign language translator in the public body (SHCEK). However, there is still a need for more professionals for this position.

UK: I'm not aware of sign language being recognized as an official language by our federal courts but there is a right to have sign language interpretation provided. The state is responsible for covering the costs associated with this accommodation.

USA/New York State: Sign language interpreters are provided in New York State and federal Courts. Excerpt from New York State Unified Court System Website: "Courts in New York State are covered under Title II of the ADA. The New York State Unified Court System is committed to fostering compliance with the Americans with Disabilities Act and to providing services, programs and activities in a way that assures accessibility for all users of the courts, including qualified individuals with disabilities." <http://www.courts.state.ny.us/accessibility/index.shtml>

Additional Remarks/Ergänzende Erläuterungen:

Although the question definitely referred to sign language being an officially recognized language in a country, the Essl Foundation decided to give a "green" light when sign language interpreters are provided for free by the state in case of legal procedures etc, since, in practice, there is no other difference. Entgegen der Fragestellung wurde hier auch mit GRÜN gewertet, wenn die Gebärdensprache keine offiziell anerkannte Sprache ist, aber Gebärdendolmetscher für Menschen mit Behinderung bei Gerichtsverfahren etc. zur Verfügung gestellt werden und die Kosten vom Staat getragen werden, weil dies in der Praxis zum selben Resultat führt.

QUESTION 16/FRAGE 16

AT: (1) Obwohl offiziell meist als „nicht mehr in Gebrauch“ beschrieben, gibt es zahlreiche Vorwürfe zu übermäßigem und unkontrolliertem Gebrauch von Käfig-/Netzbetten und Vier-Punkt-Fixierung. (2) Email, BMG Prof. MR Dr. Gerhard Aigner (Leitung Bereich B-Gesundheits- und Kranken- und Unfallversicherungsrecht): „NEIN, ABER.“ Dies deshalb, da ein ausdrückliches Verbot bestimmter freiheitsbeschränkender technischer Maßnahmen, etwa bestimmte Betten, nicht normiert ist, freilich aber beginnend mit grundrechtlich-verfassungsrechtlichen Vorgaben (z. B. BVGPersFr) strengste Vorgaben in Richtung ultima ratio bestehen. Z. B. Art 1, insb Abs 3 des Bundesgesetzes über den Schutz der persönlichen Freiheit, BGBl 1988/684 (Grundsatz der Verhältnismäßigkeit): § 3 Unterbringungsgesetz (UbG), BGBl 1990/155§ 33 UbG (Beschränkungen der Bewegungsfreiheit) § 38 UbG: gerichtliche Kontrolle u. a. der Beschränkungen der Bewegungsfreiheit.

CH: Nein, nicht explizit. Anwendbar sind jedoch der Grundsatz der Menschenwürde, das Recht auf persönliche Integrität sowie der Grundsatz der Verhältnismäßigkeit. Das neue Erwachsenenschutzrecht konkretisiert diese Verfassungsrechte/Grundsätze und regelt unter welchen Voraussetzungen ausnahmsweise eine Einschränkung der Bewegungsfreiheit zulässig ist. Für diese Situationen sind insbesondere die Protokollierung und die Information der Vertretungspersonen vorgeschrieben und es gibt eine Beschwerdemöglichkeit an die Behörde.

DE: Nein, nicht verboten, aber auch nicht in Gebrauch.

IRL: (1) Difficult question to answer, firstly what is the definition of cage beds? Could it mean when 2 sides of the bed are up (like you would find in hospitals?) or are you talking about restrictive beds with restraints etc? The Irish Mental Health Act Part 6 makes provisions and gives guidance about bodily restraints which are to be enforced by the Mental Health Commission, however there is no monitoring accept for centres who come under the Act. (2) While there is no legislation stating that the use of cage beds is illegal, they are out of use in Ireland.

SWE: Cage beds: With regard to § 19 in the law concerning psychiatric compulsory care, cage beds are legal "If there is an immediate danger to a patient". Below you find a Google translation:

19 § If there is an immediate danger to a patient serious harm to himself or another, the patient may briefly be fastened with a belt or similar device. Health professionals should be present during the time the patient is kept restrained. If there are serious reasons, may be decided that the patient must be restrained longer than specified in the first paragraph. Chief decides on clamping. The National Board shall be promptly informed of the decision under the second paragraph.

UK: Emails requesting this information have thus far gone unanswered.

USA/New York State: Yes with qualifications (at the U.S. national level, not at the New York State level). New York Residents with disabilities may freely enter and leave the State. Further, American Citizens with disabilities from other States may also freely enter and leave New York State. U.S. law now requires all foreigners to fill out an Electronic Travel Authorization System (ESTA) form prior to entering the country via plane, and there are specific questions about physical and mental disabilities on the form. Please note, New York State does not have authority to require foreigners to fill out such forms.

Additional Remarks/Ergänzende Erläuterungen:

Ireland wondered whether beds with different kinds of restraints are included, so probably, in the next survey, a more precise definition is needed. Im Zuge der Erhebung wurde das Wort „Käfigbetten“ in „Netzbetten“ umgeändert. Irland wirft die Frage auf, ob unter dem Begriff Netzbetten auch unterschiedliche Arten der Fixierung von Menschen verstanden wird, was möglicherweise eine genauere Beschreibung in der nächsten Erhebung erforderlich macht.

QUESTION 17/FRAGE 17

AT: Bundesministerium für Inneres 26. 4.; Telefonat Mag. Gollia (Ministeriumssprecher): Es gibt keine Hinweise.

CDN: Canada's Immigration Act has an explicit clause that denies entry to a person who is deemed to pose an excessive burden to health and social services. There are exceptions to this clause – for example it's inapplicable to those applying under family reunification, as refugees or on humanitarian grounds.

CH: Ja. Allerdings können sich faktisch z. B. bei der Personenfreizügigkeit Probleme für die Nichterwerbstätigen ergeben, welche aufgrund der Behinderung (Bezüger von Leistungen der sozialen Sicherheit) entstehen.

DK: Leaving the country is restricted as social authorities are to give permission for stays of more than 4 weeks outside Denmark. The permissions are related to necessity of being accompanied by personal assistants, bringing aids and other kinds of support. The legislation is complicated and ramified.

IRL: Nowhere in any of the legislation, procedures or documentation covering either immigration or the granting of visas is there any reference either to disabilities or disorders. Difficult question to answer, from an Irish perspective there are a number of visas (student, work permits etc). I can't find any legal impediment to travel

SWE: yes, in theory but not always in practice.

USA/New York State: Yes with qualifications (at the U.S. national level, not at the New York State level). New York Residents with disabilities may freely enter and leave the State. Further, American Citizens with disabilities from other States may also freely enter and leave New York State. U.S. law now requires all foreigners to fill out an Electronic Travel Authorization System (ESTA) form prior to entering the country via plane, and there are specific questions about physical and mental disabilities on the form. Please note, New York State does not have authority to require foreigners to fill out such forms. To provide a complete answer to this question, one would need to fully explain how the U.S. federal system works, which is beyond the scope of this social index.

Additional Remarks/Ergänzende Erläuterungen:

The answer from USA/New York State was changed from an „orange“ light to a „red“ light, because the USA currently asks visitors to the country for some data regarding disabilities in its entry form (and the respondent referred to New York State).

Die Antwort der USA/New York State wurde von „orange“ auf „rot“ umgeändert, weil sich die Antwort auf die Einreise in den Bundesstaat New York bezog, und die Abfrage von Daten in Bezug auf Behinderung nicht der UN-Konvention entspricht.

QUESTION 18/FRAGE 18

AT: Unterschiedliche Regelungen in den Bundesländern, insbesondere für Menschen mit intellektueller Behinderung.

CDN: The provision of supports and services is provided, in general, by Provincial and Territorial Governments. While Governments do provide direct support to persons with disabilities, I'm not aware of an explicit law that mandates the provision of all the support required.

CH: Zurzeit wird die Verankerung einer solchen staatlich bezahlten persönlichen Assistenz vom Parlament debattiert. Bis Ende 2011 läuft ein Pilotprojekt dazu. Alle Infos auf <http://www.assistentbudget.ch/Deutsch/Untermenu/ArtikelAll.asp?all=all&ObjektArtNr=1&RootNr=1>. Das Assistentbudget stünde nur Personen mit Behinderung zur Verfügung, welche eine Hilflosenentschädigung erhalten (<http://www.ahv-iv.info/iv/00233/00245/index.html?lang=de>).

ROM: In Romania the law says, if you are a disabled person included by a Commission in the "serious" category, which means that you are severally affected, you could have a personal assistant which is somehow "obliged" to offer you all kind of support which you need for inclusion in the community - school, work, etc. But that depends very much about the real possibilities in the community and first of all about the personal assistant willingness. In most cases the personal assistants are one of the family members.

SLO: The law for this issue is in the preparation phase. At present it is possible for disabled persons to get assistance in the process of professional and employment rehabilitation. (2) Yes with qualifications - This issue is included into the proposal for new Act on equal rights but it is not yet adopted. But now days some of categories of disabled are using assistance already. We have also available assistance in the process of Vocational and Employment rehabilitation - Supported employment.

UK: NHS and Community Care Act 1992 places a duty on the local authority to assess people who may be in need of assistance. However, there may be disagreements about the nature or level of support offered.

Additional Remarks/Ergänzende Erläuterungen:

In countries with a federal government structure (like Austria, Germany, Spain or the US) this matter is normally governed on the regional level, and here the rules are often completely different from each other. This makes it difficult in some cases to answer with a single colour. In Ländern mit einem föderalen Regierungssystem (wie Österreich, Deutschland, Spanien und den USA) wird dies üblicherweise auf regionaler Ebene geregelt, und überdies sind diese regionalen Bestimmungen häufig extrem unterschiedlich. Die Vergabe einer Farbe in der internationalen Übersicht ist deswegen mitunter schwierig.

QUESTION 19/FRAGE 19

AT: (1) Unter bestimmten Voraussetzungen werden Förderungen gewährt. (2) Diese Leistungen der Länder beinhalten keinen Rechtsanspruch.

CH: Nein. Siehe Antwort auf Frage 18. Die Höhe des Assistenzbeitrages ist begrenzt.

HU: Es gibt zwar staatliche Unterstützung, diese reicht aber bei Weitem nicht aus. Außerdem wird sie nur Menschen bezahlt, die zu 100% behindert sind.

IRL: No person with a disability is legally entitled to full financial support.

ROM: Durch gesetzliche Regelung ist die Höhe der finanziellen Unterstützung fuer verschiedene Behinderungs-Grade festgelegt.

SLO: Yes with qualifications - The Lay about personal assistance is in the preparation phase.

SWE: Yes, we have a general welfare system in Sweden. The general welfare system: Swedish welfare policy generally regards public services systems and social insurance systems as aimed at the entire population and not just "the needy". The ban on discrimination and general welfare form two important parts of the Swedish system.

UK: This is means-tested and people must contribute to the cost of social care depending upon their level of income.

USA/New York State: No -People with disabilities are entitled to receive Social Security Disability Insurance (SSDI) and Supplementary Security Income (SSI) if they are unemployed, or their income is below a certain level. SSDI and SSI provide monthly money allocations to persons with disabilities, but do not necessarily meet the amount necessary to pay for all the supports one needs. People with certain disabilities in New York State have a harder time qualifying for such benefits. It should be noted that people who are blind are eligible for more SSI money than other disability groups.

Additional Remarks/Ergänzende Erläuterungen:

In Austria there is no legal right to financial support, which would basically mean a "red" light. However, since in Austria "under certain conditions" financial support is granted, an "orange" light was given. (Details can be found in the Austrian survey.)

In Romania an "orange" light was chosen because the financial support is a legal right, but dependent on the percentage of disability. The answer of Hungary is not clear and could mean that the question was misinterpreted. In Österreich gibt es keinen Rechtsanspruch auf diese Leistung, was „rot“ bedeuten würde, da aber „unter bestimmten Voraussetzungen“ größere Unterstützungen gegeben wird, wurde auf „orange“ geändert. In der nationalen Übersicht gibt es dazu einen detaillierten Überblick. In Rumänien wurde „orange“ vergeben, weil der Grad der Behinderung ausschlaggebend ist. Die ungarische Antwort kann nicht genau zugeordnet werden.

QUESTION 20/FRAGE 20

AT: Email Fr. Rott (Verein für Sachwalterschaft): Alle Behindertenhilfegesetze sehen zwar einen Rechtsanspruch auf einen vollbetreuten Wohnplatz vor, es besteht aber kein Rechtsanspruch, einen bestimmten Wohnplatz zu wählen. Es gibt auch keinen Rechtsanspruch auf eine Betreuung/Assistenz zu Hause.

CDN: There are no State-run institutions in Canada. Institutions that remain in Canada are operated by Provincial/ Territorial Governments.

CH: Die betroffene Person und ihr nahestehende Personen haben ein Beschwerderecht gegen eine behördliche Unterbringung oder gegen Entscheide des Beistandes. Mit dem neuen Erwachsenenschutzrecht werden die Einrichtungen verpflichtet, die Behörde zu informieren, wenn sich niemand von außerhalb der Einrichtung um die betroffene Person kümmert. Die Kantone haben eine Aufsichtspflicht über Wohn- und Pflegeeinrichtungen.

DE: Die jährlichen Überprüfungen werden zwar durchgeführt, aber die örtlichen Heimaufsichten sind keine unabhängigen Institute, sondern sind z.B. den Sozialministerien der Länder zugegliedert und somit nicht neutral frei bei der Frage.

IRL: In May 2009 the Health Information and Quality Authority (HIQA) published Standards for Residential Services for People with Disabilities developed for the purposes of the registration and inspection of residential services for persons with disabilities. Criteria 13.13 of the Standards provides that an individual may leave a residential service in accordance with his/her wishes and his/her personal plan and when alternative arrangements have been worked out with him or her. He/she is supported through the transition process. The standards have not been implemented as yet however due to costs and residential institutions are not therefore subject to statutory inspections to ensure that the standards are implemented.

SLO: Yes, except for persons with a legal guardian or persons with severe mental disorders.

SWE: Yes, administrators and guardians ad litem are subject to the supervision of the chief guardian. Provisions concerning their administration and duty to report are largely the same as those applicable to guardians.

UK: People detained formally under the Mental Health Act have rights to review set out within the Act. In 2005 legislation came into force to address the phenomenon known as the "Bournewood Gap." This involved the scenario where people were in an institution informally but did not have capacity to decide whether to leave. The Deprivation of Liberty Safeguards included in the Mental Capacity Act 2005 aim to address this.

Additional Remarks/Ergänzende Erläuterungen:

In the United Kingdom the light's colour was changed to "orange", since the existence of the "Bournewood Gap" means that many persons with disabilities live in quasi-Institutions where these rights are not granted. In Großbritannien wurde aufgrund der Existenz des "Bournewood Gap" die Farbe auf "orange" geändert: Es gibt eine Reihe von Menschen in quasi-institutioneller Betreuung, für die die genannten Rechte nicht gelten.

QUESTION 21/FRAGE 21

AT: ORF: 1,5% 2009 – 2011 müssen 2% erreicht werden.

CH: Siehe dazu Art. 7 und 8 der Radio und Fernsehverordnung (RTVV, SR 784.401):• Die Schweizerische Radio- und Fernsehgesellschaft (SRG) ist verpflichtet, den Anteil untertitelter Fernsehsendungen in ihrem redaktionellen Programm in jeder Sprachregion schrittweise auf einen Drittel der gesamten Sendezeit auszubauen. (Art. 7 Abs. 1)• Die SRG muss täglich in jeder Amtssprache mindestens eine Informationssendung ausstrahlen, die in Gebärdensprache aufbereitet ist. (Art. 7 Abs. 2)• Die SRG muss monatlich in jeder Amtssprache mindestens zwei Filme ausstrahlen, die mit Audio-Beschreibung für Sehbehinderte aufbereitet sind. Davon ist die Hälfte für Schweizer Filme vorzusehen. (Art. 7 Abs. 3)• Andere Fernsehveranstalter mit nationalem oder sprachregionalem Programmangebot, die ihr Programm nicht in Zusammenarbeit mit der SRG ausstrahlen, müssen den Hör- oder den Sehbehinderten zur Sendezeit wöchentlich mindestens eine behindertengerechte Sendung anbieten. (Art. 8) Das Bundesamt für Kommunikation prüft mindestens alle drei Jahre die Möglichkeit einer Erhöhung des Anteils an behindertengerecht aufbereiteten Fernsehsendungen. Erscheint die geltende Regelung nicht mehr angemessen, beantragt das UVEK beim Bundesrat deren Änderung.

IRL: Exact figures for the percentage of programming providing assistance to blind and visually impaired audiences on the main public TV channels RTE1 and RTE2 are available: less than 25% on both channels in 2009. However, the Broadcasting Commission of Ireland has set a target of 1% audio description for RTE1 and RTE2. The BCI Access Rules detailing audio description and subtitling targets are available at http://www.bci.ie/documents/revised_access_rules_june_07.pdf

SLO: Only one Slovene movie was made this way. No other assistance exists.

SWE: Approximately 25% of the most watched TV programs provide assistance to blind and visually impaired audiences.

QUESTION 22/FRAGE 22

AT: >25%<75%, Email v. 5. 5., Fr. Klettner (ORF): 2009 waren es 35,34%. Fr. Mayerhoffer (ORF) Mail: Untertitelung erstes Halbjahr 2010 zwischen 38 und 40%. Bis Ende 2011 müssen 55% erreicht werden.

CH: 2009: 26,2% laut <http://www.srgssrdeesuisse.ch/de/medien/single/date/2010/fernsehsender-der-srg-ssr-steigern-auch-2009-ihre-leistungen-fuer-sinnesbehinderte-3/>

HU: 25–75%, manchmal bei den Nachrichten, bei Übertragungen aus dem Parlament und es gibt einmal im Monat eine Sendung für Behinderte.

IRL: Exact figures for the percentage of programming with simultaneous translation into sign language, close captioning or sub-/sur-titling on the main public TV channels RTE1 and RTE2 are available: RTÉ One greater than 75% subtitled in 2009, RTÉ Two between 25% and 75% subtitled in 2009. However, the Broadcasting Commission of Ireland has set a target of 1% Irish Sign language for RTE1 and RTE2.

ROM: (1) Less than 25% just foreign language films are subtitled for everybody (2) Unter 0,1%: es gibt nur eine Sendung im nationalem TV Sender (TVR1), einmal pro Woche, Dauer 45 min, mit eingeblendete Gebärdensprache.

SLO: No - The Slovene Association of Deaf and Hard of Hearing has a TV show that is broadcast twice a month. It is 30 minutes show about deaf population, their problems, projects, events. Since december 2009 on the third national TV channel TV news are simultaneously translated. Some news, shows, documentaries are also subtitled on demand through teletext option.

SWE: We have not found any information on what percentage of programs or airtime that has simultaneous translation into sign language. (We assume the percentage is very low!) Approximately 75% of the programs are sub titled into Swedish.

UK: In 2007 the figure was 80%, with an aim of 100% by April 2008

USA/NY: Almost 100% of prime time television programs are closed captioned on the major networks. For an interesting article about closed captioning on the internet see <http://www.nytimes.com/2010/06/21/business/media/21captions.html>

Additional Remarks/Ergänzende Erläuterungen:

The respondents referred to different systems of translation and subtitling, which partly explains the big difference in percentages. Bei dieser Frage wurde in den meisten Ländern auf verschiedene Versionen der Übersetzung Bezug genommen, also Gebärdensprache oder Untertitelung. Die unterschiedliche Verbreitung der beiden Systeme erklärt auch die großen Zahlenunterschiede.

QUESTION 23/FRAGE 23

AT: 68 Domänen von 11 Ministerien haben zu 94% WAI-A-Kriterien erfüllt, laut Erhebung 2008 „Accessibility und Usability“; evaluiert wurde in Bezug auf die zu diesem Zeitpunkt gültigen Web Content Accessibility Guidelines (WCAG) des World Wide Web Consortiums (W3C) in der Version 1.0. Diese Richtlinien umfassen eine Vielzahl „technischer“ Kriterien, die erfüllt werden müssen, um einen Web-Auftritt barrierefrei zu gestalten.

CDN: To the best of my understanding, the Federal Government meets all or most accessibility standards.

CH: (1) Bund: annähernd 100%; Kantone: unterschiedlich. Einige wenige Websites des Bundes (EBGB, BSV; BAG während der H1N1-Kampagne) bieten oder boten Videos in Gebärdensprache an. (2) EF: Für die Schweiz wurde wohl WCAG 2.0 gesetzlich verabschiedet, bis Ende 2010 müssen alle Bundeswebsites angepasst werden.

DE: <http://www.bmbf.de/foerderungen/12128.php>; §11 Bundesgleichstellungsgesetz (Inkrafttreten am 1. Mai 2002) besagt folgendes: (1) Träger öffentlicher Gewalt [...] gestalten ihre Internetauftritte und -angebote [...] nach Maßgabe der nach Satz 2 zu erlassenden Verordnung (BITV) schrittweise technisch so, dass sie von behinderten Menschen grundsätzlich uneingeschränkt genutzt werden können. Das Bundesministerium des Innern bestimmt im Einvernehmen mit dem Bundesministerium für Arbeit und Sozialordnung durch Rechtsverordnung [...] nach Maßgabe der technischen, finanziellen und verwaltungsorganisatorischen Möglichkeiten die in den Geltungsbereich der Verordnung einzubeziehenden Gruppen behinderter Menschen, die anzuwendenden technischen Standards sowie den Zeitpunkt ihrer verbindlichen Anwendung, die zu gestaltenden Bereiche und Arten amtlicher Informationen. (2) Die Bundesregierung wirkt darauf hin, dass auch gewerbsmäßige Anbieter von Internetseiten [...], die mit Mitteln der Informationstechnik dargestellt werden, durch Zielvereinbarungen nach § 5 ihre Produkte entsprechend den technischen Standards nach Absatz 1 gestalten. Schrittweise bedeutet auf Bundesebene folgendes: Seiten, die für behinderte Menschen besonders interessant sind (als Beispiele werden Seiten des Bundesarbeitsministeriums und des Behindertenbeauftragten genannt), müssen bis 31. Dezember 2003 mit den Checkpunkten der Priorität I konform sein. Für alle anderen Seiten gilt ebenfalls Priorität I, jedoch mit einer Umsetzungsfrist bis 31. Dezember 2005. Schrittweise ist wiederum auf Landesebene (d. h. für Seiten des Landes) unterschiedlich definiert, hierzu siehe: <http://www.webforall-heidelberg.de/web-gesetze-und-verordnungen/laender/landesgleichstellungsgesetze-%28lsg%29.html>; Bayern z. B. hat Fristen bis 2013 gesetzt, in Berlin hingegen sollten alle neu gestalteten Websites schon seit Inkrafttreten des Landesgesetzes 1999, alle übrigen seit Januar 2007 barrierefrei gestaltet werden. Die Standards, die verwendet wurden, habe ich hier gefunden: <http://www.barrierefreies-webdesign.de/bitv/rechtsverordnung.html>

SWE: We have not a single monitoring system for the accessibility of websites in Sweden, nor in the EU. There are some separate statistics concerning the web site of the governmental authorities. An orientation objectives in the coming new strategy for the Swedish Agency for Disability Policy Coordination, Handisam, is that the availability and usability of public websites must increase. With the new mandate, the issue of monitoring will be overcome. To answer this question is not easy. In order to answer the percent you must have decided what you are measuring and how it works. You may want to elaborate on what the state's policy is on making its official websites Universally Accessible?

UK: According to the Centre for Information Guidance as of 15/10/09 public sector websites were still referring to WCAG1.0

USA/New York State: Information not available - New York State is pushing to make all State websites Universally Accessible in the next few months and has made a big push with educating State employees about ensuring websites are accessible to all.

Additional Remarks/Ergänzende Erläuterungen:

Although the WCAG Guidelines define the universal accessibility of websites clearly, some respondent had difficulties in answering the question, because WCAG is not universally known. Even if it is known, in some cases there is no information available as to whether the Guidelines are completely met, especially because the question was asked about the websites "of the government", of which is no clear definition. Obwohl die Guidelines des WCAG (Version 1.0 und Version 2.0) eine sehr klare Richtlinie zur Beantwortung der Frage vorgab, hatten einige Auskunftspersonen damit Schwierigkeiten, weil die Guidelines zu wenig bekannt sind, und auch bei Bekanntheit nicht genau gesagt werden konnte, ob und welche davon erfüllt werden. Auch deswegen, weil nach den Webseiten „der Regierung“ gefragt wurde, eine zu wenig genaue Definition.

QUESTION 24/FRAGE 24

AT: (1) Ja, aber: Menschen mit Lernbehinderungen bzw. Menschen mit psychischen Beeinträchtigungen haben oft nicht die Möglichkeit frei zu entscheiden, wo und mit wem sie gemeinsam leben wollen. Es gibt immer noch Möglichkeiten zu sterilisieren bzw. unfruchtbar zu machen, da die Betroffenen nicht ausreichend informiert und beraten werden. Vielfach wird automatisch eine Empfängnisverhütung angewandt. Abtreibungen finden ohne ausreichende Aufklärung bzw. auch gegen das Verständnis der Betroffenen statt. Menschen mit Lernbehinderungen oder psychischen Beeinträchtigungen wird in den meisten Fällen durch eine gerichtliche Entscheidung nicht die Möglichkeit gegeben ihr Kind selbst zu erziehen. (2) ÖAR/Meierschitz, 1. 6. 2010: Es gibt keine Zahlen darüber, wie viele Menschen mit (psychischen) Beeinträchtigungen verheiratet sind oder Kinder haben. Es gibt Einschränkungen, da der Sachwalter beidem zustimmen muss. Thema Kinder: Sex wurde und wird MmB abgesprochen, löst aber auch große Ängste aus; Sterilisierung gibt es unter bestimmten Umständen noch, auch deswegen weil auch viel Angehörige dafür sind: wenn schon Sex, dann sollten zumindest Kinder kein Thema sein, für die diese vielleicht sorgen müssten; gibt kaum Sexualberatung oder Aufklärung; auch keine regelmäßige Pille oder andere Verhütung; ist auch ein Thema der persönlichen Assistenz und muss individuell gehandhabt werden, wenn es bislang passiert, dann durch engagierte Betreuer.

CDN: It has been our experience that while persons with disabilities have the same rights they do not have the same opportunities. We hear frequent stories of women with intellectual disabilities who have their children removed from their care. There is a significant gap between theory and practice on this issue.

CH: Heirat: Urteilsfähigkeit vorausgesetzt, aber gemäß Rechtsprechung des Bundesgerichts sind die Anforderungen an diese niedrig. Das Zustimmungserfordernis des Vormundes bei entmündigten Personen wird mit dem neuen Erwachsenenschutzrecht aufgehoben. Kinder bekommen: gleiche Rechte wie alle. Die Verwirklichung dieses Rechtes kann aber für Menschen, die in Institutionen leben, u. U. schwierig sein. Die Sterilisation (Bundesgesetz über Voraussetzungen und Verfahren bei Sterilisationen [Sterilisationsgesetz] vom 17. Dezember 2004 [SR 211.111.1]) ist nur erlaubt bei urteilsfähigen, erwachsenen Personen (ab 18 Jahren), wenn diese selbst frei einwilligen. Sind diese Personen entmündigt, müssen zusätzlich der gesetzliche Vertreter sowie die vormundschaftliche Aufsichtsbehörde ihre Zustimmung erteilen. Bei dauerhaft urteilsunfähigen Personen ist die Sterilisation nur ausnahmsweise zugelassen, wenn a. sie nach den gesamten Umständen im

Interesse der betroffenen Person vorgenommen wird; b. die Zeugung und die Geburt eines Kindes nicht durch geeignete andere Verhütungsmethoden oder durch die freiwillige Sterilisation des urteilsfähigen Partners oder der urteilsfähigen Partnerin verhindert werden können; c. mit der Zeugung und der Geburt eines Kindes zu rechnen ist; d. nach der Geburt die Trennung vom Kind unvermeidlich wäre, weil die Elternverantwortung nicht wahrgenommen werden kann, oder wenn die Schwangerschaft die Gesundheit der betroffenen Frau erheblich gefährden würde; e. keine Aussicht besteht, dass die betroffene Person jemals die Urteilsfähigkeit erlangt; f. die Operationsmethode mit der größten Refertilisierungsaussicht gewählt wird; und g. die vormundschaftliche Aufsichtsbehörde nach Artikel 8 zugestimmt hat.

DE: Ja bei Körperbehinderungen; ja mit Einschränkungen ggf. bei geistigen Behinderungen oder psychischer Erkrankung, z. B. Heirat ist zustimmungspflichtig

DK: Persons with disabilities are free to marry as they please. Sterilization by force is no more in use. It is an option to apply for being sterilized after a certain age for everybody – persons with and without disabilities alike. In relation to fertility treatment the doctors are in general obligated to evaluate the ability to carry out parental duties before recommending such treatment. This obligation applies to everybody – persons with and without disabilities alike.

IRL: (1) The law as it relates to sexual relationships and people with intellectual disabilities differs from that applicable to persons who do not have an intellectual disability. S. 5 of the Criminal Law (Sexual Offences) Act 1993 states that 'A person who (a) has or attempts to have sexual intercourse, or (b) commits or attempts to commit an act of buggery, with a person who is mentally impaired (other than a person to whom he is married or to whom he believes with reasonable cause he is married) shall be guilty of an offence'. S. 5(2) of the Act states that 'A male person who commits or attempts to commit an act of gross indecency with another male person who is mentally impaired shall be guilty of an offence'. For the purposes of this section 'mentally impaired' is defined as 'suffering from a disorder of the mind, whether through mental handicap or mental illness, which is of such a nature or degree as to render a person incapable of living an independent life or of guarding against serious exploitation'. The Act is available at <http://www.irishstatutebook.ie/1993/en/act/pub/0020/index.html>;

The effect of this legislation may be to criminalise consensual sexual relationships between, for example, two people with intellectual disabilities. (2) Yes but with qualifications. For example Mental Illness/Handicap is an impediment to marriage

This question is too general – for the majority of persons with disabilities in Ireland there is no impediment to getting married however, the need for legal capacity to make the decision excludes people with intellectual disabilities and also people with mental health difficulties.

In the case of people with mental illness/handicap, the following applies 'One or both parties is incapable by reason of mental handicap or illness of understanding the nature and effect of the marriage contract (a medical report is required to establish the facts in such cases).

POR: In accordance with Portuguese legislation are limited to certain rights, including marriage, people who have a notorious dementia and those who have been banned or unqualified as a result of a lawsuit. Thus people with intellectual disabilities are limited only to the rights listed in the email, except in cases of notorious dementia, if you have taken a lawsuit to declare your disability or incapacity for mental disorder. Out of these cases, if a person can declare their willingness freely, there is no legal impediment to marriage. affiliate, etc.

Sterilization of young people with mental disabilities in the area is allowed only after permission of the court based on medical opinions and evidence that this would be his will.

TR: Regarding the marriage issue, according to the Turkish Civil Law only people with mental disabilities are not permitted for being married. There are no barriers on marriage for people with other disabilities.

UK: Art. 8 of the Human Rights Act 1998 (The Right to Marry and Found a Family) and Art.14 HRA (no discrimination in respect of the application of the articles.)

USA/New York State: Yes, but with qualifications. For example Mental Illness is an impediment to marriage. Comment: This question is too general – for the majority of persons with disabilities in New York State there is no impediment to getting married however, the need for legal capacity to make the decision often excludes people with intellectual disabilities or mental health disabilities.

Additional Remarks/Ergänzende Erläuterungen:

In Ireland both respondents chose an "orange" light, although mentioning that it can be a criminal act to have sexual intercourse with a person with intellectual disabilities. They also indicated that a person with an intellectual disability may need a certificate from a medical practitioner in order to marry. The ESSL Foundation therefore changed the colour to "red", because, according to the UN Convention, decisions have to be made according to social, not medical, criteria.

In general there remain some doubt how qualifications shall be seen in this context that derive from decision-making by legal guardianship.

In Irland wählen beide NGOs die Farbe „orange“, allerdings wird erwähnt, dass man sich strafbar machen kann, wenn man Geschlechtsverkehr mit einer geistig behinderten Person hat bzw. auch, dass eine Person mit intellektueller Beeinträchtigung ein ärztliches Gutachten braucht, um heiraten zu können. Die ESSL Foundation ändert die Farbe deswegen auf ROT, weil Entscheidungen nach der UN-Konvention nicht nach medizinischen Aspekten, sondern nach sozialen Kriterien beurteilt werden müssen.

Generell etwas unklar bleibt bei dieser Frage, wie die generellen Einschränkungen zu bewerten sind, die durch die Entscheidungsfindung über Vormundschaften oder Sachwalterschaften entstehen.

QUESTION 25/FRAGE 25

AT: Dieses Recht besteht theoretisch: In der Praxis gibt es viel zu wenig barrierefreie Schulgebäude und kaum entsprechend ausgebildetes Lehrpersonal.

CH: Die Schweizer Bundesverfassung garantiert jedem Kind das Recht auf einen genügenden und unentgeltlichen Grundschulunterricht (Art. 19 BV). Die Kantone sind hierzu zuständig. Ein Recht auf Unterrichtung in einer Regelschule (im Gegensatz zu einer Sonderschule) gibt es nicht. Es gibt aber Art. 8 Abs. 2 BV, welches Diskriminierungen aufgrund der Behinderung auch im Schulbereich verbietet. Und Art. 20 BehiG, welcher die Integration in die Regelschule empfiehlt. Falls das Kind aufgrund seiner Behinderung auf sonderpädagogische Maßnahmen angewiesen ist, um einen genügenden Grundschulunterricht zu erhalten, hat es einen Anspruch darauf (auch hier sind die Kantone zuständig. Siehe Art. 62 Abs. 3 BV sowie das voraussichtlich am 1. 1. 2011 in Kraft tretende interkantonale Konkordat im Bereich der Sonderpädagogik; Anmerkung per Juni 2010 sind 10 Kantone dem Konkordat beigetreten).

DE: Ja, jedes Kind hat das Recht; in der Praxis ist es jedoch noch nicht vollständig umgesetzt bzw. auch von der Art der Schule abhängig.

IRL: Section 2 of the Education for Persons with Special Educational Needs (EPSEN) Act 2004 states that 'a child with special educational needs shall be educated in an inclusive environment with children who do not have such needs unless the nature or degree of those needs of the child is such that to do so would be inconsistent with (a) the best interests of the child...or (b) the effective provision of education for children with whom the child is to be educated'.

The Education of Persons with Special Educational Needs Act 2004 is available at <http://www.oireachtas.ie/documents/bills28/acts/2004/A3004.pdf>

SPA: (yes the right other thing is the reality)

UK: The Special Educational Needs and Disability Act 2001 (SENDA) set out entitlement to mainstream education for pupils with special educational needs

USA/New York State: Under the Individuals with Disabilities Education Act (IDEA), children with disabilities have a right to Individualized Education Plans (IEPs) to ensure they receive proper accommodations to succeed in school with their peers. Under IDEA, children with disabilities must be educated in the Least Restrictive Environment (LRE), and therefore children may not be in the general classroom with their peers at all times.

Additional Remarks/Ergänzende Erläuterungen:

In this question the problem arises again that, while the question asks specifically about the legal situation, the reality of daily life is very different. NGOs, therefore, opted mainly to choose according to the situation in daily life. In this case the Essl Foundation did not alter the colours that had been chosen.

In dieser Frage taucht wiederum das Problem auf, dass aus Objektivierungsgründen nach der rechtlichen Situation gefragt wurde, die sich allerdings in der Praxis deutlich unterscheiden kann. In diesem Fall hat die Essl Foundation die Farbauswahl der Auskunftspersonen in den NGOs beibehalten.

QUESTION 26/FRAGE 26

Additional Remarks/Ergänzende Erläuterungen:

This question was not analysed because the length of compulsory education is very different in different countries. This led to answers that cannot be compared. Also the theory vs practice problem arose again.

Diese Frage wurde nicht in die Bewertung aufgenommen, da das „Ende der Schulpflicht“ in den Ländern unterschiedlich ist und auch interpretiert wurde und daher nicht vergleichbare Ergebnisse bringt. Auch führt der Unterschied zwischen Theorie und Praxis zu nicht ganz vergleichbaren Antworten.

QUESTION 27/FRAGE 27

CDN: As referenced above, children may be included in a mainstream school but in a separate classroom within the school for some or all of their time at school.

QUESTION/FRAGE 28

CDN: Our focus is on people with intellectual disabilities. There is still much work to be done to ensure that people with intellectual disabilities are included in post-secondary.

CH: Art. 8 Abs. 2 Bundesverfassung sowie das BehiG (Art. 2 Abs. 5) verlangen Anpassungen der Prüfungsmethoden an die Bedürfnisse von Menschen mit Behinderung, um Diskriminierungen zu vermeiden.

DE: Für Bayern gilt: je nach Schwere der Behinderung kann eine Verlängerung der Prüfungsdauer um bis zu 50 Prozent gewährt werden. Alternative Prüfungen wie z. B. eine mündliche statt einer schriftlichen Prüfung werden – wenn überhaupt – vom Prüfer festgelegt; ein Recht darauf besteht aber nicht.

DK: Students can have additional time and use their aides, otherwise no adjustments.

IRL: (1) Decisions relating to the testing of students, including students with disabilities, are taken at the discretion of the individual third-level institutes. While some third-level institutes may offer alternative testing as an option, there is no right to alternative testing methods for students with disabilities. (2) Yes with qualifications - Students are entitled to a reasonable accommodation to sit the same exam as their peers. This accommodation could be longer time, a scribe, assistive technology. However it is not an explicit right – it is arranged by needs assessment.

UK: Universities and Higher Education colleges have an obligation to make provision for disabled students (alternative testing methods being included as an example) They must also produce a Disability Statement showing how they do this.

USA/New York State: Under the ADA and the Rehabilitation Act of 1973, qualified students with disabilities are entitled to reasonable accommodations to sit the same exam as their peers. Accommodations include extended time, alternative format (large print), a scribe, assistive technology, among other accommodations. However it is not an explicit right – it is arranged by needs assessment.

Additional Remarks/Ergänzende Erläuterungen:

The German NGO answered with a “red” light, because there is no legal right to alternative testing methods. The Essl Foundation, however, changed this to and “orange” light, since it was confirmed that these are, actually, broadly available.

Die deutsche NGO beantwortete die Frage mit „rot“, weil es kein spezifisches Recht gibt. Die Essl Foundation hat auf „orange“ geändert, weil trotzdem Möglichkeiten einer alternativen Prüfungsmethode angeboten werden.

QUESTION/FRAGE 29

AT: Auskunft Statistik Austria, vom 30. April 2009; Soziale Lage gesundheitlich beeinträchtigter Studierender 2006 – IHS Wroblewski, Unger, Schilder, S 14 f.

CDN: This information may be collected by a variety of sources including census surveys.

CH: Nein. Gemäß einer Nationalfond Studie von Judith Hollenweger, Susan Gürber, Andrea Keck (Menschen mit Behinderungen an Schweizer Hochschulen, Befunde und Empfehlungen, Zürich 2005) sind gut 12% der Studierenden behindert oder chronisch krank. Viele brechen das Studium ab oder wechseln die Studienrichtung.

SWE: We do not have statistics concerning how many persons with disabilities are engaged in or graduate from higher-level studies. However, many persons with disabilities engage in higher-level studies. In the publication “Higher Education and Physical Impediments”, the Swedish National Agency for Higher Education compiled a survey and elucidated facts from other studies conducted. The survey concerned students who benefited from support schemes from the colleges. It is apparent from the publication that about 75 percent of students benefiting from support schemes considered accessibility be very good, while around 25 percent considered to be poor or very poor. Accessibility to studies in this context is understood to mean those who do not have disabilities. Not only physical accessibility is therefore involved, but also the problem is that many colleges are not getting better at working with a number of groups of persons with disabilities. Many with medical (e.g. episodic stomach and bowel diseases, asthma and allergies), cognitive and mental disabilities do not receive so much support nowadays.

IRL: Yes, the census provides statistics on persons with a disability who attained a 3rd level qualification after completing 2 or more years of study. (http://www.cso.ie/census/census2006_volume_11.htm) AHEAD, the organisation for Higher Education Access and Disability have entrance figures of students with disabilities at third-level.

UK: These are published by the Higher Education Statistics Agency (HESA)

USA/New York State: Many students with invisible disabilities choose not to self-identify at the University level and therefore such statistics would be very inaccurate.

QUESTION/FRAGE 30

AT: (1) Laut Gesetz könnten blinde Menschen den Richterberuf ergreifen. Mit 1. 1. 2006 trat das Behindertengleichstellungspaket in Österreich in Kraft. Damit sollen Diskriminierungen von Menschen mit Behinderungen in allen Lebensbereichen verhindert oder beseitigt und damit die gleichberechtigte Teilhabe am Leben in der Gesellschaft ermöglicht werden. Am 24. Juni 2006 trat das Bundes-Behindertengleichstellungs-Begleitgesetz in Kraft. Im Wesentlichen wurden die diskriminierenden Berufszugangsvoraussetzungen der „körperlichen und geistigen Eignung“ eliminiert. In der Praxis fördert in Österreich das Gesetz die persönliche und fachliche Eignung eines Menschen, um Richter werden zu können. (2) Es gibt regelmäßig Probleme seitens der Richterergewerkschaft. (3) Tel. 26. 4. Dr. Paukner (BMJ): „Keine Antwortmöglichkeit zutreffend.“ Es gibt derzeit keinen blinden Richter in Österreich.

DE: Rechercheergebnisse der Essl Foundation: In Deutschland gibt es viele blinde Richter und auch Staatsanwälte im Amt, mit Tradition seit dem Zweiten Weltkrieg. Einzig das Strafrecht wurde 1987 vom BGH für blinde Menschen ausgeschlossen.

IRL: (1) There are no restrictions on blind or visually impaired persons preventing them from sitting as judges. (2) A blind person can become a judge, but there is not one sitting judge in the state who is blind.

SLO: There was some years ago a blind judge, but she could not handle the situation no more so she retired.

SPA: to be a Judge the law state that the person has to have the capacity to act as a Judge, but it reserves 5% of the places to be covered by persons with disabilities.

UK: Featured in an article in The Independent newspaper on 15/3/00.

Additional Remarks/Ergänzende Erläuterungen:

Results from the survey made clear that in the next survey this question should be included in the employment section, and not the education section.

Die Recherche-Ergebnisse legen nahe, diese Frage bei der nächsten Erhebung im Kontext der Arbeitsausübung und nicht der Ausbildung zu reihen.

QUESTION 31/FRAGE 31

AT: (1) Mail von AUVA: „Nach Arbeitsunfällen und Berufskrankheiten erbringt der Unfallversicherungsträger Rehabilitation: medizinisch als Pflichtleistung (Anspruch), beruflich als Pflichtaufgabe (kein Anspruch des Versicherten), sozial als freiwillige Leistung (ebenfalls kein Anspruch des Versicherten). Pensionsversicherung: Zur Vermeidung des Anfalls einer Pension aus dem Versicherungsfall der geminderten Arbeitsfähigkeit oder dauernden Erwerbsunfähigkeit hat der Pensionsversicherungsträger ebenfalls medizinische, berufliche und soziale Maßnahmen der Rehabilitation zu erbringen. (2) ÖAR Meierschitz, 1-6-2010: AUVA überlegt VfGH-Beschwerde, weil sie de facto zur Bezahlung der Kosten von Freizeitfällen entgegen der Gesetzeslage verpflichtet werde; UnfallKH behandelt, GKK bezahlt und geht zur AUVA, für die das nicht kostendeckend ist.

CDN: There is wide variation on this issue. In part because of jurisdictional issues and in part because of interactions between private insurance, workers compensation programs, provincial/territorial benefits and Federal benefits. In general where and how you acquire a disability has significant impact on the short- and long-term benefits an individual will receive.

CH: Kürzungen gemäss Art. 36ff. Unfallversicherungsgesetz (UVG, SR 832.20) möglich.

IRL: The state pays Disability Benefit and Occupational Injury.

SLO: It depends on the type of insurance. But costs are paid from insurance.

UK: Not applicable: Healthcare in the UK is covered by the National Health Service and is free at the point of access. It is funded by National Insurance payments, which are deducted from employees' salaries and employers' contributions. Those on benefits are also included in this.

QUESTION 32/FRAGE 32

AT: Es gibt nach § 342 Abs 1 Z 9 ASVG eine diesbezügliche Verpflichtung für Gruppenpraxen (mit Kassenvertrag); für alle anderen niedergelassenen Praxen ist dies nicht der Fall. Behindertenbericht S239: „Weiters hat die für die Neuvergabe von Kassenplanstellen zu beachtende Reihungskriterien-Verordnung das ernsthafte Bemühen zur Schaffung eines behindertengerechten Zugangs zur Praxis in den Kriterienkatalog aufgenommen.“ OIB-Richtlinie schließt die Barrierefreiheit Arztpraxen (bei Neubauten) ein.

CH: Es gelten auf Bundesebene die Regeln, welche im Teil betreffend Zugänglichkeit erwähnt wurden. Es bleibt den Kantonen frei, weit-ergehende oder spezifischere Regelungen zu erlassen.

IRL: There is no legislative provision specifically requiring pharmacies to be accessible.

There is however applicable secondary legislation relating to access to buildings for persons with disabilities. Please see answer to question 6. It should also be noted that the Equal Status Act 2000 prohibits discrimination in a number of areas including the disposal of goods, the provision of services and the provision of accommodation. Disability is one of the nine grounds on which discrimination is prohibited and s. 4(1) of the Act states that 'discrimination includes a refusal or failure by the provider of a service to do all that is reasonable to accommodate the needs of a person with a disability by providing special treatment or facilities, if without such special treatment or facilities it would be impossible or unduly difficult for the persons to avail himself or herself of the service'. This is qualified however by s. 4(2) states however that 'A refusal or failure to provide the special treatment or facilities to which subsection (1) refers shall not be deemed reasonable unless such provision would give rise to a cost other than a nominal cost, to the provider of the service in question'.

2) Yes, Equal Status Act covers medical practitioners as a service. However, there are considerations with regard to making services accessible A person selling goods or providing services, a person selling or letting accommodation or providing accommodation, educational institutions and clubs must do all that is reasonable to accommodate the needs of a person with a disability. However, they are not obliged to provide special facilities or treatment when this costs more than what is called a nominal cost. What amounts to nominal cost will depend on the circumstances such as the size and resources of the body involved. (See the Equal Status Acts 2000 -2004)

POR: In fact, the Portuguese Law No. 163/2006, of August 8, which approves rules accessibility techniques apply to all public departments and agencies of the government, including Hospitals, Health Centers and medical offices. There is no specific law, but a generally applicable law. Law No. 163/2006, of August 8 applies to all buildings serving the public, including private doctors premises.

UK: Since 2004 all service providers have been required to address physical features of their premises which make access difficult for persons with disabilities (Disability Discrimination Act 1995).

USA/New York State: Medical practitioners are covered by Title III of the ADA, and must provide reasonable modifications for persons with disabilities to have access, so long as such modifications do not constitute an "undue burden" on their practice. In considering "undue

burden," courts look at the yearly revenue of the practice. One illustrative example of how this is important is if a person who is deaf visits a doctor's office and requires a sign language interpreter who may cost \$200 for a short visit, the doctor cannot use the "undue burden" defence in refusing to pay for the interpreter because a court will consider his yearly revenue, and will likely find that \$200 is not an issue at all for him to pay in providing access to a patient. Please note that although the law REQUIRES access for persons with disabilities to medical practitioners, there have been many instances in New York State where necessary accommodations have not been provided. Such instances include: people who are deaf not being provided sign language interpreters, and people who are blind not receiving medical information in an accessible form prior to consenting to medical procedures. For applicable New York State law, See New York State's Human Rights Law § 296.2.

Additional Remarks/Ergänzende Erläuterungen:

It turned out that in several countries this is covered in more general laws about the accessibility of buildings, and that no special laws for medical practitioners or pharmacies exist.

In manchen Ländern gibt es keine eigenen Bestimmungen über den barrierefreien Zugang von Arztpraxen oder Apotheken.

QUESTION/FRAGE 33

AT: Tel. Mag. Prinz, Österr. Apothekenkammer: Es gibt es eine rechtliche Verpflichtung, dass der Verkaufsraum barrierefrei zugänglich sein muss. Das ist in der Apothekenbetriebsordnung festgelegt, darin ist auch ausreichend definiert, in welcher Önorm. Übergangsfrist § 78 Abs. 5 ist heuer im Februar abgelaufen. Nach der Ordnung, haben die Apotheken die Möglichkeit für einen „technisch unvertretbaren Aufwand“ die Behörde in Kenntnis zu setzen (jahrhundertalte Häuser, Denkmalschutz oder in Gebieten an der Donau wegen Überschwemmungsgefahr). In diesen Fällen ist man um Ersatzlösungen bemüht (z. B. Glocke). Alle neuen Apotheken müssen barrierefrei sein.

CH: Es gelten auf Bundesebene die Regeln, welche im Teil betreffend Zugänglichkeit erwähnt wurden. Es bleibt den Kantonen frei, weit-ergehende oder spezifischere Regelungen zu erlassen.

IRL: 1) There is no legislative provision specifically requiring pharmacies to be accessible. There is however applicable secondary legislation relating to access to buildings for persons with disabilities. Please see the answer to Question 6.

It should also be noted that the Equal Status Act 2000 prohibits discrimination in a number of areas including the disposal of goods, the provision of services and the provision of accommodation. Disability is one of the nine grounds on which discrimination is prohibited and s. 4(1) of the Act states that 'discrimination includes a refusal or failure by the provider of a service to do all that is reasonable to accommodate the needs of a person with a disability by providing special treatment or facilities, if without such special treatment or facilities it would be impossible or unduly difficult for the persons to avail himself or herself of the service'. This is qualified however by s. 4(2) states however that 'A refusal or failure to provide the special treatment or facilities to which subsection (1) refers shall not be deemed reasonable unless such provision would give rise to a cost other than a nominal cost, to the provider of the service in question'.

2) Yes, Equal Status Act covers medical practitioners as a service. However, there are considerations with regard to making services accessible. A person selling goods or providing services, a person selling or letting accommodation or providing accommodation, educational institutions and clubs must do all that is reasonable to accommodate the needs of a person with a disability. However, they are not obliged to provide special facilities or treatment when this costs more than what is called a nominal cost. What amounts to nominal cost will depend on the circumstances such as the size and resources of the body involved. (See the Equal Status Acts 2000 -2004)

UK: Since 2004 all service providers have been required to address those physical features of their premises that make access difficult for persons with disabilities (Disability Discrimination Act 1995)

USA/New York State: Pharmacies also are covered by Title III of the ADA and New York State Law, and therefore must ensure accessibility to persons with disabilities. See also New York State's Human Rights Law § 296.2.

Additional Remarks/Ergänzende Erläuterungen:

In Austria, there is indeed a time-frame, but because of the extensive exceptions and the assessment of an "orange" light by the NGOs, an "orange" light has been chosen. In Österreich gibt es zwar einen Zeitrahmen, aber aufgrund der weitreichenden Ausnahmen und der Beurteilung der NGOs mit „orange“ wurde hier mit „orange“ bewertet.

QUESTION 34/FRAGE 34

AT: Email 7. 5., Dr. Schmon BSB: PAA kann von Menschen mit Behinderung im erwerbsfähigen Alter in Anspruch genommen werden, die in der Pflegestufe 5, 6 oder 7 eingestuft sind, die fachliche und persönliche Eignung für den ausgeübten bzw. angestrebten Beruf aufweisen und in einem aufrechten sozialversicherungspflichtigen Dienstverhältnis stehen und mit Hilfe der PAA die Qualität ihrer Arbeitsleistung steigern bzw. einen drohenden Arbeitsplatzverlust vermeiden können oder mit Hilfe der PAA ein in konkrete Aussicht gestelltes sozialversicherungspflichtiges Dienstverhältnis erlangen können oder mit Hilfe der PAA ein Studium oder eine Berufsausbildung in der gesetzlich vorgeschriebenen Dauer zuzüglich der für den Bezug von Studienbeihilfe zulässigen weiteren Semester absolvieren können. Auf die Gewährung einer Förderung besteht kein Rechtsanspruch. Finanzierung durch den Bund.

CDN: Employment is a shared jurisdictional issue in Canada. The federal government and the provincial/territorial governments have programmes for employment-related training and supports.

IRL: On the one hand (given a "green") - A person with disabilities has the right to assistance in the workplace paid for by the State. A range of supports are available to persons with disabilities including grants for adapting or equipping the workplace for staff with disabilities or personal reader grants for blind and visually impaired employees.

A full description of supports for persons with disabilities to assist them to find and keep employment is available on the Citizens Information website at <http://www.citizensinformation.ie/categories/employment/employment-and-disability> FAS. Ireland's national training and development authority also provides a supported employment programme for persons with disabilities. This programme matches persons with disabilities with a job coach who will assist them in sourcing suitable employment, help with developing the technical and social skills necessary for the job and provide ongoing support to participants in the programme once they enter employment.

Further information can be found on the FAS website at <http://www.fas.ie/en/Communities/Supported+Employment.htm>

But on the other hand (given a red), while no actual right exists, there are grants to employers available by state agency responsible for getting persons with disabilities into employment and training. These grants include the Employee Retention Grant Scheme and the Workplace Equipment

Adaptation Grant (source: <http://www.fas.ie/en/Allowances+and+Grants/default.htm>). Additionally, employers under the Employment Act are entitled to reasonable accommodation to do their job, an employer must show they have made all attempts to provide reasonable accommodation.

SLO: One Red states: "We still do not have a law, but in general for some categories of disabled people the costs are covered."

SPA: A worker has the right to assistance in the workplace. The estate gives grants to the company for that. (this are not always sufficient)

UK: This is covered by the Access to Work Scheme. However, in some circumstances the employer must meet a proportion of the costs involved.
USA/New York State: Private employers must pay for the reasonable accommodations of their employees with disabilities. This issue is heavily discussed in New York State, and many disability organisations are lobbying to have State agencies provide funds for reasonable accommodations in private workplaces. These organisations argue that making private employers pay for accommodations serves as a deterrent to hire qualified persons with disabilities.

Additional Remarks/Ergänzende Erläuterungen:

It turned out that with this question many different kinds of "assistance on the workplace" can theoretically be offered, for example, assistance with the work itself, job coaches, or the personal assistance necessary for that the person with disabilities to do the work. This question has to be reshaped for the next survey.

Bei dieser Frage kam es während der Erhebung zu unterschiedlichen Definitionen von „Arbeitsassistenz auf seinem Arbeitsplatz“. Hier gibt es eine Reihe von Interpretationsmöglichkeiten, welche Art von Serviceleistungen damit gemeint sein könnte, wie Assistenzleistungen, Job-coaches oder um eine persönliche Assistenz, ohne die die Ausübung eines Jobs nicht möglich wäre. Hier besteht Präzisionsbedarf für die nächste Erhebung.

QUESTION 35/FRAGE 35

AT: Mail v. 12. 5., Mag. Wirnsberger BMSK: In diesen Zusammenhang muss zwischen den verschiedenen DienstgeberInnen im Bereich des öffentlichen Dienstes unterschieden werden. Daten betreffend Menschen mit Behinderung (begünstigte Behinderte iSd. Behinderteneinstellungsgesetzes), welche beim Bund bzw. bei den Ländern in Beschäftigung stehen, werden grundsätzlich erfasst und regelmäßig in globaler Form veröffentlicht – beispielsweise im Rahmen der Beantwortung parlamentarischer Anfragen. Abschließende Daten hinsichtlich der Gemeinden liegen unserem Haus nicht vor.

CDN: At a federal level this information is published in an annual report on the Inclusion of Persons with disabilities: http://www.hrsdc.gc.ca/eng/disability_issues/reports/index.shtml

CH: Wird für die Bundesverwaltung angestrebt.

DE: Gem. dem Bundesministerium für Arbeit und Soziales wird die Anzahl von Menschen mit Behinderung, die im öffentlichen Dienst beschäftigt sind, berechnet und publiziert, allerdings nicht jährlich/regelmäßig.

http://www.bmas.de/portal/9054/2006_03_22_bericht_beschaefigung_behinderter_bund.html

IRL: 1) Part 5 of the Disability Act 2005 requires public bodies to ensure, unless there is good reason to the contrary, that at least 3% of staff employed are persons with disabilities. A 2008 National Disability Authority Report indicates that 55% of public sector bodies had achieved or exceeded the statutory minimum target for employing staff with a disability.

Report available at [http://www.nda.ie/cntmgmtnew.nsf/0/584C604587AEE6BE8025768D00574AFE/\\$File/PartV_FinalEnglish.pdf](http://www.nda.ie/cntmgmtnew.nsf/0/584C604587AEE6BE8025768D00574AFE/$File/PartV_FinalEnglish.pdf)

2) Public sector organisations are obliged to promote and support the employment of persons with disabilities, and achieve a statutory minimum 3% target of staff with disabilities (Disability Act 2005, Part 5) Link to the figures for 2008 <http://www.nda.ie/website/nda/cntmgmtnew.nsf/0/584C604587AEE6BE8025768D00574AFE?OpenDocument>

SWE: Every second year.

UK: This is recorded in the Labour Force Survey. The figures have been cited in journal articles but a special license is required to access the survey.

QUESTION 36/FRAGE 36

AT: Die Zahl der Unternehmen, die Menschen mit Behinderung beschäftigen, ist 2009 leicht gestiegen (1,2%), allerdings sind die Pflichtstellen ebenso um 3,8% angestiegen – Statistikdaten von BSA Wien und Hr. Wirnsberger BMSK.

CH: No official figures.

CDN: It is important to note that there are stark differences in employment rates for persons with disabilities based on their disability. Increases to employment are not reflective of the experience of all persons with disabilities. This information is available in an annual report on the Inclusion of Persons with Disabilities:

http://www.hrsdc.gc.ca/eng/disability_issues/reports/index.shtml

IRL: No figures are available for 2009

ROM: Share has increased since tax incentives for companies from the state were given.

UK: No answer given, however, "50% of persons with disabilities are in employment, compared with 80% of non-disabled people."

USA/New York State: According to the Bureau of Labor Statistics, from May 2009- May 2010 the number of persons with disabilities who are employed has decreased. <http://www.bls.gov/news.release/empst.t06.htm>

QUESTION 37/FRAGE 37

AT: Tel. 7. 6. mit Fr. Dr. Eichinger-Kniely/WKO Lehrlingsausbildung: Integrative Berufsausbildung (IBA) gibt es als Teilqualifizierung und verlängerte Lehre und in ganz Österreich. Möglichkeit besteht für Jugendliche mit körperlicher und geistiger Behinderung. Zahlen (Stichtag 31. 5. 2010): Verlängerte Lehre 3.295 (davon 2.400 in Unternehmungen); TQ 1.459 (davon 685 in Unternehmungen). Es gibt keine Statistik, ob Behinderung oder Migrationshintergrund. ÖAR-Meierschitz: Das gibt es theoretisch, idP sind es aber Kinder mit Migrationshintergrund, die das nützen.

CH: Das BehiG verlangt, dass die Aus- und Weiterbildung von Menschen mit Behinderung an ihre Bedürfnisse angepasst wird (siehe Art. 2 Abs. 5 BehiG). Als Anpassungen gelten zum Beispiel Verlängerung der Ausbildungszeit oder Anpassungen bei den Prüfungen. Diese Pflicht, staatliche Aus- und Weiterbildung an die Bedürfnisse von Menschen mit Behinderung anzupassen, kann auch aus Art. 8 Abs. 2 der Bundesverfassung abgeleitet werden. Im Rahmen der beruflichen Grundbildung gibt es die Möglichkeit einer zweijährigen beruflichen Grundbildung mit eidgenössischem Berufsattest (EBA). Die zweijährigen beruflichen Grundbildungen sind 2004 mit dem neuen Berufsbildungsgesetz (BBG) eingeführt worden. Inzwischen sind bereits 23 Bildungsverordnungen erlassen worden, rund 20 weitere sind geplant. Sie stellen – im Gegensatz zu den früheren Anlehen – eine berufliche Einstiegsqualifikation dar, die vom Arbeitsmarkt nachgesucht wird und eidgenössisch anerkannt ist. Im Vergleich zu den drei- oder vierjährigen beruflichen Grundbildungen, die mit einem eidgenössischen Fähigkeitszeugnis (EFZ) abschließen, handelt es sich um eine spezifischere und einfachere berufliche Qualifikation im Vergleich zur regulären Grundausbildung. Ziel ist es, vor allem praktisch begabten Jugendlichen einen in der Wirtschaft anerkannten Abschluss und damit verbundenen Anschluss auf dem Arbeitsmarkt zu ermöglichen. Der 2009 erschienene Bericht der OECD über das schweizerische Berufsbildungssystem hebt diese Ausrichtung auf die Arbeitswelt als vorbildhaft hervor. Erste Erfahrungen haben gezeigt, dass bei einem Viertel bis einem Drittel der Absolventinnen und Absolventen die zweijährigen beruflichen Grundbildungen mit eidgenössischem Berufsattest dazu dienen, in eine weiterführende Berufsbildung (eidgenössisches Fähigkeitszeugnis) zu wech-

seln. Erscheint der Bildungserfolg gefährdet, so kann eine fachkundige individuelle Begleitung gewährt werden (Art. 10 Abs. 4 BBV). Diese Begleitung umfasst neben schulischen auch alle weiteren bildungsrelevanten Aspekte im Umfeld der betroffenen Person (Art. 10 Abs. 5 BBV). Für Jugendliche, die Schwierigkeiten beim Einstieg in eine berufliche Grundbildung haben, stehen in den Kantonen Brückenangebote bereit. Dadurch können die Jugendlichen schulische Lücken schließen und sich auf eine berufliche Grundbildung vorbereiten. Bei Bedarf werden sie im Rahmen des kantonalen Case Management Berufsbildung ab der Sekundarstufe I gezielt unterstützt. Falls die Jugendlichen dennoch nicht in der Lage sind, einen eidgenössisch geregelten Abschluss (Berufsattest oder Fähigkeitszeugnis) zu erreichen, ist eine individuelle Bescheinigung ihrer in der Praxis erworbenen Kompetenzen möglich. Dabei geht es darum, bestimmte in der Praxis erworbene Kompetenzen auf geeignete Art festzuhalten. Mit dem Inkrafttreten der 5. IV-Revision wurden die Eingliederungsmaßnahmen verstärkt. Für Personen, die bei der IV angemeldet und nicht in der Lage sind, eine berufliche Grundbildung zu absolvieren, die zum eidgenössischen Fähigkeitszeugnis (EFZ) oder zum eidgenössischen Berufsattest (EBA) führt, hat INSOS (Soziale Institutionen für Menschen mit Behinderungen Schweiz) einen zweijährigen Ausbildungsgang „Praktische Ausbildung INSOS“ entwickelt. Die Ausbildung ist vorwiegend auf das Erlernen und Ausführen von einfachen praktischen Tätigkeiten und der entsprechenden theoretischen Kenntnisse ausgerichtet. Diese Ausbildung wird gegenwärtig im Rahmen des Forschungsprogramms Invalidenversicherung (FoP IV) evaluiert; Ergebnisse sind auf Februar 2010 zu erwarten. Versicherte mit schwerer geistiger oder mehrfacher Behinderung, die die Voraussetzungen für eine berufliche Grundbildung erfüllen, kommen in den Genuss einer IV-Ausbildung, die sie entweder auf eine Tätigkeit auf dem freien Markt oder in einer geschützten Werkstatt vorbereitet. Voraussetzung ist, dass die Ausbildung aus wirtschaftlicher Sicht voraussichtlich genügend Nutzen bringt und es ohne diese Ausbildungsmaßnahme nicht möglich wäre, die betroffene Person auf dem freien Markt oder in einer geschützten Werkstatt zu beschäftigen.

IRL: (1) There are some additional opportunities for young persons with disabilities to finish vocational educational programmes. In particular, in relation to funding further or higher education, the Fund for Students with Disabilities allocates funding to colleges for the provision of services and supports to full-time students with disabilities. This Fund seeks to ensure that students can participate fully in their academic programmes and are not disadvantaged by reason of disability. Further information on the Fund for Students with Disabilities can be found at <http://www.studentfinance.ie/pca7575.html>

(2) FÁS enhances the skills and competencies of individuals and enterprises in order for Ireland to further develop as a competitive, inclusive, knowledge-based economy. It strives to do this through the provision of tailored training and employment programmes that suit everyone's needs. FAS offers opportunities for persons with disabilities to undertake vocational training programmes <http://www.fas.ie/en/Equality/Disability/default.htm>

SWE: Such options include: extending the length of their vocational education, receiving partial qualifications, access to alternative testing methods etc.

UK: Support from the Connexions agency is available until the age of 25 for disabled people (compared with 18 for young people without disabilities.) Also S6 of the Disability Discrimination Act 1995 requires reasonable adjustments to be made (e.g. to testing methods.)

USA/New York State: New York State has various vocational rehabilitation agencies that assist in funding and training youth with disabilities in job skills. They also educate youth with disabilities on self-advocacy skills and assistive technology devices among other opportunities they provide.

Additional Remarks/Ergänzende Erläuterungen:

Again the problem arises between theory and practice. While opportunities are generally available, in one form or another, in some countries, for example, Austria, NGOs agree that, in practice, such opportunities often do not serve the required purpose.

Hier taucht erneut das Problem auf, dass Theorie und Praxis weit auseinander liegen können. Während es diese Möglichkeiten in den meisten Ländern in irgendeiner Form gibt, sind sich die NGOs - so wie in Österreich - einig, dass sie ihren Zweck nicht erfüllen.

QUESTION 38/FRAGE 38

AT: Tel. , Mail 17. 6. Mag. Wenda BMI (Wahlen-Bund): Die Formulierung, ob ein Mensch mit Behinderung das Recht auf „jede notwendige Unterstützung“ bei der Ausübung des Wahlrechts hat, klingt ihrem Gehalt nach derartig „absolut“, dass sich nach allgemeinem Ermessen wohl in keiner einzigen Wahlordnung eine solche hundertprozentige Garantie finden ließe. Dennoch wird im Lichte des 2008 veröffentlichten zweiten Behindertenberichts der Bundesregierung, der eine umfangreiche Dokumentation über die Situation von Menschen mit Behinderungen in Österreich enthält, von einer Beantwortung mit „JA“ auszugehen sein. Der Bericht hielt nämlich fest, dass sich selbst für schwer behinderte Wählerinnen und Wähler durch die Inanspruchnahme der verschiedenen, vom Gesetzgeber zur Verfügung gestellten Maßnahmen bei Wahlen (insbesondere Briefwahl, Wahlkarte, besondere Wahlsprengel, „fliegende Wahlkommissionen“, Begleitpersonen, Stimmzettel-Schablonen) „in praktisch jedem erdenklichen Fall die Möglichkeit bietet, vom Stimmrecht Gebrauch zu machen“ (vgl Pkt 9.1., S. 110).

CDN: Blind Canadians are unable to vote in secret.

CH: Das BehiG verlangt, dass staatliche Dienstleistungen für Menschen mit Behinderung zugänglich sind. Darunter fallen insbesondere auch die offiziellen Informationen im Vorfeld von Wahlen und Abstimmungen sowie die Wahlunterlagen.

IRL: 1) A number of steps have been taken to assist persons with disabilities in Ireland to exercise their right to vote. Persons with disabilities can vote at an alternative polling station if the local station is inaccessible, they may be helped to vote at the polling station by a companion or the presiding officer; they may vote by post or they may vote at a hospital, nursing home or similar institution where they live. Braille ballots are templates are not currently available to blind or visually impaired persons who wish to vote in this way. Further information on facilities for voters with disabilities may be found at http://www.citizensinformation.ie/categories/government-in-ireland/elections-and-referenda/voting/facilities_for_voters_with_disabilities

2) There are a variety of arrangements in place to assist those with certain disabilities in Ireland to exercise their voting rights. You can vote at an alternative polling station if the local station is inaccessible be helped to vote at the polling station by a companion or the presiding officer vote by post; vote at a hospital, nursing home or similar institution if you live there. A presiding officer may refuse a person with a disability access to vote if they require assistance to do so and arrive in the last two hours of voting. This is because the officer may feel it is obstructing other voters from voting. If a presiding officer considers that you do not have the capacity to vote s/he may refuse a person access to vote. There is no law to govern this and no test in place. It is therefore at the discretion of the presiding officer (source http://www.inclusionireland.ie/documents/Factsheets_000.pdf)

SWE: Yes. The Swedish evaluation of the national action plan for disability policy shows for example that only 56 % of the polling stations are completely accessible. Despite the fact that Sweden has a law[2] <#_ftn2> stating that the municipalities must use polling stations that are accessible.

UK: All polling stations must have a tactile voting device and large print version of the ballot paper. People can vote by post or by proxy or with a companion's help. Easy-read information on voting is available from the Electoral Commission.

USA/New York State: Yes with qualifications - Although people theoretically have this right, it often does not play out in practice. People who are blind or visually impaired often do not vote in secret due to inaccessible polling stations, or inaccessible ballots.

QUESTION 39/FRAGE 39

AT: Tel. Dr. Doris Karner BMUKK: Es gibt keine rechtliche Verpflichtung, in Rahmenzielvereinbarung aufgenommen bzw. Hinweis im Vermittlungsprogramm diese Zielgruppe mit einzubeziehen. Belvedere bietet spezielle Führungen für seh- und gehörbehinderte Personen an (mit Gebärdendolmetscher): <http://www.belvedere.at/jart/prj3/belvedere/main.jart?rel=de&content-id=1172842070196&reserve-mode=active>; Unter http://www.hilfsgemeinschaft.at/index.php?id=127&no_cache=1 da sind Museen angeführt, die Ausstellungen für Sehbehinderte machen. Multi-mediaguide für Gehörlose im Technischen Museum und Mumok, wo man mit Handschuhen und Mitarbeitern auch Kunstwerke „begreifen“ kann.

CH: Zugänglichkeit: Es gelten die Regeln, welche im Teil betreffend Zugänglichkeit erwähnt wurden. Zudem müssen staatliche Museen dafür sorgen, dass ihre Dienstleistungen auch für Menschen mit Behinderung zugänglich sind (also zum Beispiel auch spezielle Führungen, oder Zulassung von Blindenhunden).

UK: Disability Discrimination Act 1995

USA/New York State: Yes with qualifications - Under Title III of the ADA and New York State's Human Rights Law § 296.2 all places of public accommodations (such as museums) should make reasonable modifications to be accessible to persons with disabilities. As a person who is legally blind, I can attest to the fact that the contents and exhibits at museums are hardly ever accessible to people who are blind. Further, most museums do not offer accommodations for audible information for people who are deaf.

Additional Remarks/Ergänzende Erläuterungen:

See the remarks on comparisons within Austria.

Siehe die Anmerkungen zum innerösterreichischen Vergleich.

QUESTION 40/FRAGE 40

AT: EF: Bundestheater Ja; Ausgewählte Stadien und Landestheater: Ja; ÖAR-Meierschitz: Gibt es zum Teil, man muss nur a. auf die Qualität der Plätze schauen, und b. ob sie von den Begleitpersonen getrennt werden, was dann ja nur das halbe Vergnügen ist. NGOs sagen alle „orange“.

CH: In der Regel haben heutzutage in der Schweiz alle Veranstaltungsorte von der Größe wie Opernhäuser, Konzerthallen, Sportstadien, etc. reservierte Rollstuhlplätze, weil das schon lange von den kantonalen Bauvorschriften verlangt wurde. Die Anzahl, d. h. die Dotierung, dürfte allerdings sehr unterschiedlich sein. Meist wahrscheinlich eher im Minimum-Bereich. Eine einheitliche Regelung dafür gibt es in der Schweiz erst seit 2009, mit Inkrafttreten der neuen Norm SIA 500, die bald in allen Kantonen verbindlich sein wird.

IRL: Part M of the Building Regulations 2000 provide that if a building contains fixed seating for an audience or spectators, adequate provision must be made for persons with disabilities.

ROM: Only a few, and only newly built within the last 3 to 5 years

Additional Remarks/Ergänzende Erläuterungen:

See the remarks on comparisons within Austria.

Siehe die Anmerkungen zum innerösterreichischen Vergleich.

QUESTION 41/FRAGE 41

AT: Mail v. 12. 5. Mag. Wirnsberger BMSK: Die österreichische Verfassung kennt keinen ausdrücklichen Kompetenztatbestand „Behindertenhilfe“ oder „Behindertenwesen“. Dieser Rechtsbereich stellt eine sogenannte Querschnittsmaterie dar. Daraus folgt, dass die Zuständigkeit zwischen dem Bund und den Bundesländern aufgesplittet ist. Grundsätzlich besteht daher keine einheitliche Erfassung von Daten Menschen mit Behinderung betreffend. Die gewünschten Daten liegen unserem Haus derzeit nicht vor. Diesbezügliche Aufzeichnungen führen allenfalls das Bundesministerium für Justiz (Gefängnisse) oder die Länder.

CDN: Institutions and operated by Provincial/Territorial Government. There is no comprehensive data collection across the country or even within a province. Access to this information is piecemeal at best.

CH: Auskunftsdienst BFS: Statistik wird alle 5 Jahre auf Basis des SGB erhoben, letzte Erhebung war 2007: 172.218 Menschen leben in Einrichtungen (aufgeteilt in Einrichtungen für Behinderte und Pflege/Altenheime); nächste Erhebung wird im Jahr 2012 gemacht. Erhebung unterscheidet Altersgruppen und Geschlecht.

IRL: Currently information on the numbers of people with a physical or sensory disability accessing residential services in Ireland is available from the National Physical and Sensory Disability Database (NPSDD). Established in 2002, the NPSDD is a tool created by the Health Research Board to determine the specialised health services currently used or needed by people with a physical or sensory disability. The National Intellectual Disability Database (NIDD), also created by the Health Research Board provides similar information for persons with intellectual disabilities. The databases do not however provide information on the circumstances of all of those with physical, sensory or intellectual disabilities in Ireland. Only the circumstances of those who are registered on the databases are reflected. Information on the age groups, sex and types of care accessed by those registered on the databases is published annually.

Further information on the NPSDD and the NIDD can be found on the website of the Health Research Board available at <http://www.hrb.ie/health-information-in-house-research/disability/>

ROM: Stand am 31. 12. 2010 verfügbar.

SWE: Finally, we do not have any state run institutions. People can only be deprived their freedom of liberty either if they have committed a crime, or within the compulsory care system, Mail 23.8.2010

UK: The Care Quality Commission inspects all such institutions under the Care Standards Act 2000. Reports on each institution record the number of people in each institution and the type of institution.

Additional Remarks/Ergänzende Erläuterungen:

The ESSL Foundation changed the colour in Romania from "green" to "orange", because the statistics will only be announced for the end of the year 2010, and there is, even then, a degree of uncertainty. Austria was given a "red" light, because there are no data available to give a comprehensive picture.

Die ESSL Foundation ändert die Farbe in Rumänien von „grün“ auf „orange“, weil die Daten erst zum Jahresende verfügbar sind und damit nicht gesichert. Österreich wurde mit „rot“ festgesetzt, weil nur Teilstatistiken, aber kein umfassendes Datenmaterial vorhanden ist.

QUESTION 42/FRAGE 42

AT: Insbesondere durch die unterschiedliche Definition von Behinderung beim BASB und beim AMS gibt es extrem unterschiedliche Zahlen, die wenig Aussagekraft haben.

CH: Es besteht zurzeit keine offizielle Statistik, welche Auskunft gibt über die Ausbildung und die Beschäftigung aller Menschen mit Behinderung. Was es gibt, sind gewisse Zahlen zu Personen, welche eine IV Leistung beziehen.

IRL: The results of the National Disability Survey undertaken in 2006 were published in two volumes in 2008 and 2010. The published results include statistics on, among other things, the education, employment and training, social participation and access to the built environment of persons with disabilities in Ireland. Further information on the National Disability Survey can be found on the Central Statistics Office website at <http://www.cso.ie/releasespublications/nationaldisabilitysurvey06vol2.htm>

In addition, the census gathers data on persons with disabilities in employment.

UK: Quarterly Labour Force Survey covers the employment of persons with disabilities. Analysis of children with special educational Needs records attainment, absence and exclusion rates for this group. Due to be published in October 2010.

USA/New York State: The Rehabilitation Research and Training Center on Disability Statistics and Demographics (StatsRRTC) facilitates evidence-based decision making in many different service and policy arenas to benefit persons with disabilities, leading to improved social outcomes, and they produce an annual report. <http://disabilitycompendium.org/>. The American Community Survey also provides disability statistics regarding employment and education. <http://www.ilr.cornell.edu/edi/disabilitystatistics/reports/acs.cfm>. The U.S. census Bureau also publishes related statistics. <http://www.census.gov/hhes/www/disability/disability.html>

Additional Remarks/Ergänzende Erläuterungen:

The research made clear that a better definition of the kind of data on education and employment is needed in order to decide if this criteria is met or not.

Die Recherche ergab, dass eine genauere Definition notwendig ist, welche Informationen über Ausbildung und Beschäftigung erforderlich sind, um gut vergleichbare Antworten zu erhalten.

QUESTION 43/FRAGE 43

AT: ÖAR-Meierschitz: Ja, Finanzierung gibt es, wurde aber heuer um 10% gekürzt (und keine Chance auf Zusatzsponsoren), sehr geringe Kapazitäten, im wesentlichen Präsident (Koordinierung von 78 Mitgliedsbetrieben) und 3 Fachkräfte (Recht, Barrierefreiheit, öff. Arbeit); in NL zum Vergleich gibt es 70 Mitarbeiter.

CH: Die DOK (Dachorganisationenkonferenz der privaten Behindertenhilfe) ist der Zusammenschluss aller wesentlichen Organisationen der privaten Behindertenhilfe und -selbsthilfe in Form einer einfachen Gesellschaft. Sie wird von einem Büro geleitet: <http://www.integrationhandicap.ch/index/menuid/13>. Als solche bekommt sie keine Subventionen, aber die einzelnen Mitglieder schon.

DE: Es gibt mehrere Dachorganisationen, siehe www.bagfw.de.

IRL: The organisation name is People with Disabilities in Ireland. The organisation receives 100% of its funding from the State. The actual amount provided depends on the activities of the organisation, however an allocation of €1.465m has been provided for in the last number of years, although not all of this funding has been drawn down. Website available at <http://www.pwdi.ie/>

POR: The national law allows a disabled person, when admitted to hospital or health facility may be accompanied by a relative (Law No. 106/2009, 14 September) and is provided all medical information regarding their situation (Law on Health and the Charter of Rights and Duties of the Sick), and produce by himself or by his successors in complaints or suggestions.

SLO: http://www.mddsz.gov.si/si/delovna_podrocja/invalidi/svet_vlade_rs_za_invalide/Dachorganisation heißt: Urad vlade RS za invalide in bolnike.

UK: In the UK the umbrella organisation is RADAR - Royal Association for Disability and Rehabilitation. This is a charity and is not government-funded.

Additional Remarks/Ergänzende Erläuterungen:

Some NGOs remarked that the size of the subsidies should also be taken into account.

Einige NGos haben angemerkt, dass auch nach der Höhe der Unterstützung gefragt werden sollte.

QUESTION 44/FRAGE 44

AT: Mail v. 21. 4. Dr. Isler BMSK: Die Focal Points (Anlaufstellen) im Sinne des Abs. 1 für den Bundesbereich sind das BMASK sowie die 9 Landesstellen des ressortzugehörigen Bundessozialamts. Focal Points für den Bereich der Zuständigkeit der Länder sind meines Wissens bis dato nicht benannt. Der coordination mechanism (Koordinierungsmechanismus) im Sinne des Abs. 1 ist in Wahrnehmung seiner Koordinierungskompetenz in Bundesangelegenheiten von Menschen mit Behinderungen beim BMASK unter Einbeziehung des Bundesbehindertenbeirats angesiedelt. Der independent mechanism (unabhängige Mechanismus) zu Förderung, Schutz und Überwachung der Durchführung der UN-Konvention ist für den Bundesbereich der Unabhängige Monitoringausschuss (§ 13 BBG). Das Land Kärnten hat im Chancengleichheitsgesetz einen Mechanismus benannt, durch die anderen Länder sind mir keine Benennungen bekannt. (2) Mag. Schulze bestätigt Wiener Vorhaben, aber nicht Salzburg und Tirol.

CDN: Canada has only recently ratified the CRPD. Efforts to designate a "focal point" and to determine most effective ways for engagement with civil society have been ongoing. Currently, our Federal Office for Disability Issues has been designated as the "focal point".

DE: Only In Hamburg (<http://www.inklusion-online.net/index.php/inklusion/article/view/52/56>)

UK: The Office for Disability Issues co-ordinates implementation across government departments and invites consultation with the public and with disability groups.

Additional Remarks/Ergänzende Erläuterungen:

See the remarks on comparisons within Austria.

Siehe auch die Anmerkungen im innerösterreichischen Vergleich.

Indicators, Austrian Federal Provinces

QUESTION 4/FRAGE 4

Additional Remarks/Ergänzung zu Erläuterungen:

This question was not analysed (see remarks in the international section).

Diese Frage wurde nicht analysiert (siehe die Erläuterungen im internationalen Teil).

FRAGE 5/QUESTION 5

Linz: Tel. Frau Himmelbauer; KunstUni Linz: Es gibt keine Vorlesungen, aber Projekte wie z.B. Wohnbau, dazu werden Experten eingeladen.

Graz: Tel. Mag. Blaha: Oskar Kalamidas arbeitet in Grazer Stadtbauamtsdirektion – macht an der TU Graz Fakultät Architektur für das Wahlfach Barrierefreies Bauen: https://online.tu-graz.ac.at/tug_online/lv.person_liste?cperson_nr=42228

Innsbruck: Laut Auskunft der Fakultätsstudienleiterin der Fakultät für Architektur wird behindertengerechtes Bauen im Architekturstudium nicht in einer eigenen Lehrveranstaltung angeboten, sondern es ist in verschiedenen Seminaren, Vorlesungen, Übungen und Entwurfsprogrammen an den Instituten der Fakultät selbstverständlicher Bestandteil der Lehre.

Wien: (1) Bildende Künste keine Antwort; (2) Angewandte nach Telefonat Mail an Studienleiter Kaltenecker – keine Antwort erhalten; (3) 16. 6. Tel. TU Wien; Herr Kreuzeder (PR): Es gibt Wahlfächer

http://tuwis.tuwien.ac.at/zope/_ZopeId/12336655A4bdZMfc7SI/tpp/lv/search/processSearch?srchVal=Barriere; Thema Barrierefreiheit Bestandteil von Pflichtfächern wie z. B. Baurecht oder Entwerfen.

Klagenfurt: (1) Mail Pressestelle Uni Klagenfurt Fr. Dr. Landes: Frau DI Christine Eder arbeitet an der Universität an folgendem Projekt: <https://campus.uni-klu.ac.at/fodokng/ct/aktivitaet/projekt/33531>;

(2) 2. 9. 2010 Tel. DI Eder, Fachhochschule Spittal: Bauingenieurwesen und Architektur Vorlesung „Behindertengerechtes Bauen“ als Wahlfach; Uni Klagenfurt Studium Sozial- und Integrationspädagogik <https://campus.uni-klu.ac.at/index/sucheausfuehren.jsp>

Additional Remarks/Ergänzung zu Erläuterungen:

Only those federal provinces in Austria were analysed where universities offer studies in architecture.

Für diese Frage wurden nur Bundesländer bewertet, die an der Fachhochschule oder Universität das Studium Architektur anbieten und von der ESSL Foundation angefragt wurden.

QUESTION 6/FRAGE 6

BGL: DI Schmid: Baugesetz §4 OIB Richtlinie 4 unterschrieben.

KTN: Fr. Mag. Köffler, Landesplanung, Brief 8. 7.: § 18 Abs 5 K-BO 1996 geregelt; OIB-Richtlinie 4 noch in Begutachtung. Nur für Gehbehinderte.

NÖ: Dipl.-Ing Harm: Im § 118–123 geregelt; in §118 festgelegt, welche Bauwerke barrierefrei gebaut, Ordinationen, Schulen etc. Banken sind z. B. nicht drinnen.

OÖ: Brief Hr. Penninger: OÖ Bautechnikgesetz § 27 geregelt. § 17 Bauten müssen OIB-Richtlinie 4 entsprechen. ÖNORM 1600 kommt zur Anwendung.

SBG: Tel. Dr. Zraunig: §33 und §38a geregelt; § 38 „Für allgemein zugängliche Teile von Bauten, die öffentlichen Zwecken dienen oder für größere Menschenansammlungen bestimmt sind . . . Bauten, die auch der Unterbringung von Arztpraxen, Apotheken, Geld- oder Kreditinstituten dienen, müssen zur leichteren Zugänglichkeit dieser Einrichtungen nach den Bestimmungen des Abs. 1 ausgestattet sein“ (Ausstattung für Gehbehinderte).

STMK: Tel. Mai 10; Herr Mag. Blaha: Steirische Baugesetz wird derzeit überarbeitet und OIB-Richtlinien übernommen; alte Bauordnung §43 auf besondere Bedürfnisse Rücksicht zu nehmen, § 111 öffentliche Gebäude barrierefrei gebaut werden müssen. Neues Baugesetz war bereits zweimal im Landtag. Blaha hofft auf baldigen Beschluss. Im neuen genauer definiert: welche Gebäude (Aufzählung), barrierefrei genauer definiert + OIB-Richtlinie.

T: Fr. Gstier: Einerseits Bundesgleichstellungsgesetz für Bundesgebäude, andererseits im Tiroler Antidiskriminierungsgesetz Regelung für Gebäude der Land und Gemeinden (LB 25/2005 Fassung 41/2008); Neubauten sind in der Bautechnikverordnung LGB 93/2007, § 30/3 und ab 1. 1. 2008 beschrieben, wie barrierefrei errichtet werden soll. § 35 speziell die OIB Richtlinie 4 (außer Aufzugspflicht, die ist im § 24).

VBG: Tel. 12. 6. DI Rhomberg: gemäß Aufzählung § 34 Bautechnikverordnung; OIB-Richtlinie unterschrieben; B 1600 bindend.

Wien: Stadt Wien Abt. Barrierefreie Kompetenzen, Fr. Grigore, Email: OIB-Richtlinie unterschrieben.

Additional Remarks/Ergänzung zu Erläuterungen:

Based on the Federal Act on the Equal Treatment of Disabled Persons (Bundesbehindertengleichstellungsgesetz), all new buildings that are open to public have to be universally accessible. OIB Guideline No. 4 defines which kind of buildings are included. Those federal provinces that have included OIB Guideline No. 4 in their provincial laws are rated "green".

Aufgrund des Bundesbehindertengleichstellungsgesetzes müssen alle neu errichteten Gebäude, die öffentlich zugänglich sind, barrierefrei gebaut werden. Die OIB-Richtlinie 4 gibt genau vor, um welche Gebäude es sich dabei handelt. Bundesländer, die diese bereits in die Landesgesetze übernommen haben, wird ein „grün“ vergeben.

QUESTION 7/FRAGE 7

Additional Remarks/Ergänzung zu Erläuterungen:

This question was not analysed (see remarks in the international section)

Diese Frage wurde nicht analysiert (siehe die Erläuterungen im internationalen Teil).

QUESTION 8/FRAGE 8

BGL: Dr. Hochwarter (Referat Baurecht): Keine Stichtagsregelung, Frist ergibt sich aus Behindertengleichstellungsfrist.

KTN: Mag. Köffler Landesplanung Brief 6. 7.: In der Kärntner Bauordnung 1996 bzw. in den Kärntner Bauvorschriften 1985 ist kein Zeitrahmen festgelegt, bis wann ein öffentlich zugängliches Gebäude barrierefrei sein muss.

NÖ: Herr Dipl.-Ing. Harm ist keine Frist bekannt.

OÖ: Dipl.-Ing. Penninger: Übergangsregelung oder Anpassungsverpflichtungen für Baubestände (die baulich nicht verändert werden) gibt es nicht!

SBG: Dr. Zraunig: Gibt keinen Zeitraum im Gesetz.

STMK: Mag. Blaha: Bundesbehindertengleichstellungsgesetz kommt ebenfalls zur Anwendung; Schlichtungsverfahren möglich aber selten:

T: Dr. Gstir: Bundesgesetz Frist 31. 12. 2015; Landesgesetz keine Übergangsfrist definiert.

VBG: DI Rhomberg, Vbg. Landesreg: NEIN, es werden freiwillige Adaptierungen vorgenommen, laut § 34 Bautechnikverordnung.

Wien: (1) Fr. Girgore: Bezug auf Behindertengleichstellungsgesetz mit Frist bis 31. 12. 2015. (2) Im neuen Wiener Anti-Diskriminierungsgesetz §10 wird festgehalten, dass die Gemeinde Wien nach Anhörung der ÖAR bis zum 30. 6. 2012 einen Etappenplan zum Abbau baulicher Barrieren für die von ihr genutzten Gebäude vorzusehen hat.

QUESTION 9/FRAGE 9

OÖ: Tel. Auskunft Linz Ag 14. 6. „Ja, aber.“ Weil Fahrer ist nicht auf Menschen mit geistiger Behinderung geschult. Nur geschult in Unterstützung bei Rollstuhlfahrern, wenn Begleitperson nicht dabei.

(2) Ja, aber Fahrer sind nicht geschult . . . ja, aber nicht alle Busse sind barrierefrei zugänglich.

STMK: Tel. Fr. Zant Grazag: „JA“ Geschult in Unterstützung von Rollstuhlfahrern und Sehbehinderung. Bei „Auffälligkeiten“ sind Fahrer angehalten, Hilfestellung zu geben.

T: IVB wollte keine Antwort geben, Mail 15. 6. 2010.

Wien: (1) JA, ABER nur für gehbeeinträchtigte Menschen ist die Umstellung der Linienbusse weit fortgeschritten, wenn auch noch nicht flächendeckend (Niederflureinstiege, Aufzüge in größeren Stationen). Von einer flächendeckenden Schulung des Fahrdienstpersonals ist nichts bekannt bzw. nichts in der Praxis zu bemerken. Neben Gehbeeinträchtigungen werden auch noch Sehbeeinträchtigungen in größerem Maße berücksichtigt (taktile Bodenleitsysteme, Lautsprecheransagen „Nächster Ausstieg links“). Menschen mit intellektuellen Beeinträchtigungen können ohne Begleitung die öffentlichen Verkehrsmittel nur unzureichend benutzen: Fahrpläne in den Haltestellen und Informationssysteme innerhalb der Busse sind zu kompliziert. Fahrschein-Automaten sind für die meisten Kunden (auch ohne Behinderung!) zu kompliziert. (2) Mail Wiener Linien, Hr. Krpata: „Alle Busse der Wiener Linien sind mit einer Klapprampe ausgestattet und somit barrierefrei zugänglich. Die Bedienung der Rampe erfolgt durch den Fahrer. Eine Schulung des Personals findet ebenfalls statt. 2 Stellplätze sind allerdings nicht vorhanden. Wir müssen letztlich auch Platz für Kinderwagen frei lassen. Außerdem betreiben wir auch Minibusse im Innerstädtischen Raum.“

(3) Postbus GmbH keine Rückmeldung erhalten.

Additional Remarks/Ergänzung zu Erläuterungen:

Besides asking the NGOs als the transport system providers themselves were asked by the ESSL Foundation. In Eisenstadt and Bregenz no bus transport system exists that can be compared to those in bigger cities. The transport system provider in Innsbruck and Postbus GmbH declined to answer the question.

Die ESSL Foundation hat neben der Auskunft der NGOs auch bei den Verkehrsbetrieben in den neun Hauptstädten nachgefragt. In Eisenstadt und Bregenz besteht kein vergleichbares Bussystem. Die Innsbrucker Verkehrsbetriebe und die Postbus GmbH gaben keine Auskunft.

QUESTION 10/FRAGE 10

BGL/Eisenstadt: nicht barrierefrei, da lt. Auskunft ÖBB der Umbau noch nicht begonnen wurde.

NÖ/St. Pölten: 100% barrierefrei.

OÖ/Linz: nach übereinstimmender Meinung aller NGOs barrierefrei.

SBG: Hauptbahnhof ist derzeit im Umbau.

STMK/Graz: Wird laut Auskunft der ÖBB barrierefrei umgebaut, was das Blindenleitsystem, die Wartebereiche und die Bahnsteighöhe angeht.

T/Innsbruck: Laut Auskunft der ÖBB (und auch nach einer NGO) 100%ig barrierefrei, Kritik allerdings durch eine zweite NGO.

VBG/Bregenz: Wird laut Auskunft der ÖBB durch ein Blindenleitsystem ergänzt.

Wien: (1) Wien-Meidling (als Ersatz für den Südbahnhof) ist nach einem Lokalausweis einer NGO barrierefrei, alle anderen größeren Bahnhöfe (Wien-Süd, Wien-West, Zentralbahnhof, Wien-Mitte) sind derzeit im Umbau, was als Gesamtsituation derzeit für viele Probleme für MmB sorgt.

(2) „Ja, aber“: Nicht für eine selbstständige Nutzung durch Menschen mit intellektuellen Beeinträchtigungen. Derzeit werden die beiden Hauptbahnhöfe in Wien komplett umgebaut, wodurch von Barrierefreiheit für alle Kunden nicht gesprochen werden kann!

QUESTION 18/FRAGE 18

BGL: Tel. 15. 6., Fr. Nagelreiter, Abteilung Soziales: Bisher kein Gesetz, auch keine Nachfrage/Bedarf. (2) Tel. 6. 9. Mag. Erd, Abteilung Soziales: Kein Gesetz, weil keine Nachfrage! (3) WAG Fr. Schachinger Mail: Selbstverständlich gibt es auch im BGL, wie überall sonst, Bedarf an persönlicher Assistenz. Für persönliche Assistenz im BGL sind wir (die WAG) die zuständige Assistenzservicestelle. Und obwohl es derzeit keine behinderten Menschen gibt, die Persönliche Assistenz am Arbeitsplatz im BGL in Anspruch nehmen, bin ich überzeugt, dass es Bedarf gibt. Es hakt daran, die Information auch zu den behinderten Menschen zu bringen.

KTN: Brief v. Anwaltschaft für MMB: Ist im Kärntner Chancengesetz §12 geregelt; Brief 15. 6. Mag. Graimann, Lreg: „Ja, aber“: Mit dem neuen Kärntner Chancengleichheitsgesetz – K-ChG, LGBl. 8/2010, werden Menschen mit körperlicher oder geistiger Beeinträchtigung, die im Bezug des Pflegegeldes stehen, im Rahmen der Privatrechtsverwaltung Assistenzleistungen zur Unterstützung eines selbstbestimmten Lebens angeboten.

NÖ: Brief Mag. Mikl-Leitner: § 34 NÖ Sozialhilfegesetz 2000, ÖGBl. 9200; einkommenunabhängig gewährt, Zielgruppe: Körperbehinderung, Volljährigkeit, ab Pflegestufe 5, in eigener Wohnung oder WG lebend; kein Angebot für intellektuelle Beeinträchtigung. Zuschuss dzt.: € 20,50 pro Ass.-Std.

OÖ: Mail v 11. 5. an Lreg DI Dr. Roller unbeantwortet. „Persönliche Assistenz GmbH“, Mag. Breitfuss: „Ja, aber.“ Es gibt das Oö. Chancengleichheitsgesetz, in dem die Persönliche Assistenz geregelt ist. Darin steht auch, dass es darauf sogar einen

Rechtsanspruch gäbe. Leider steht aber auch in diesem Gesetz, dass es das nur nach Maßgabe der finanziellen Mittel gibt. Also kommt nur ein (kleiner) Teil der betroffenen Menschen zum Zug.

STMK: Tel. Fr. Schwaiger, Abt Soziales: StBHG, LGBl. Nr. 26/2004 in der Fassung 5.2010 §4; nicht wirklich eine Gesetzesgrundlage (in der Familienentlastung und Freizeitgestaltung), aber Leistungsbeschreibung vorhanden.

T: Keine Rückmeldung der Landesregierung (Mail 11. 5.). Tirol Tel. „Selbstbestimmt leben“, Mag. Zengin: Es ist geregelt in Tiroler Rehabilitationsgesetz § 83.

VBG: Keine Rückmeldung Landesregierung (Statthalter Wallner); Tel. Frau Nitz von „Reiz“: Im Chancengesetz §12 kommt pers. Assistenz vor, aber nicht klar ausformuliert.

Wien: Fonds Soziales Wien, Frau Prenner-Kaspar: Bis jetzt keine Gesetz für persönliche Assistenz, ab Herbst Grundlage geschaffen. Email Fr. Schachinger von WAG: Persönliche Assistenz im Rahmen der sogn. Pflegegeldergänzungsleistung. (2) JA, ABER das Wiener Chancengleichheitsgesetz (im Juni 2010 beschlossen) sieht im §14 persönliche Assistenz derzeit nur für Personen mit hoher PflegegeldEinstufung jedoch ohne Besachaltung vor, wodurch Menschen mit intellektuellen Beeinträchtigungen ausgeschlossen werden.

Additional Remarks/Ergänzung zu Erläuterungen: section and the bias resulting from the disparity between the legal situation and current practice. / Siehe auch die Ergänzungen im international Vergleich und die Verzerrungen, die sich aus dem Unterschied zwischen rechtlicher Situation und gelebter Praxis ergeben.

QUESTION 19/FRAGE 19

BGL: Tel. 15. 6., Fr. Nagelreiter, Abteilung Soziales: Bisher kein Gesetz, auch keine Nachfrage/Bedarf.

KTN: Brief 16. 6., Mag. Graimann, Lreg.: „Ja, aber.“ Die Assistenzleistungen werden im Rahmen der Privatrechtsverwaltung angeboten, jedoch gilt dies für Menschen mit körperlicher oder geistiger Beeinträchtigung, die im Bezug des Pflegegeldes stehen. Es ist ein bestimmtes Stundenkontingent vorgesehen. Weiters haben die Menschen mit Behinderung entsprechend ihren Einkommensverhältnissen einen Selbstbehalt zu leisten. Informationsblatt BASIS: Anspruch haben körper- und/oder sinnesbeeinträchtigte Menschen über 18 Jahre, die Pflegegeld beziehen. Für jede in Anspruch genommene Assistenzstunde wird ein Selbstbehalt von 4,15 € verrechnet.

OÖ: Antwortmail von 5. 7., Mag. Breinfuss (Persönliche Assistenz GmbH): „Ja, aber.“ Es gibt das Oö. Chancengleichheitsgesetz, in dem die persönliche Assistenz geregelt ist. Darin steht auch, dass es darauf sogar einen Rechtsanspruch gäbe. Leider steht aber auch in diesem Gesetz, dass es nur nach Maßgabe der finanziellen Mittel gibt. Also kommt nur ein (kleiner) Teil der betroffenen Menschen zum Zug. Persönliche Assistenz ist außerdem im Ausmaß von 250 Stunden pro Monat begrenzt. Manche Menschen mit Beeinträchtigung haben aber einen höheren Bedarf. Insofern kann man auch diesbezüglich nicht von „bedarfsgerecht“ sprechen.

NÖ: Brief Mag. Mikl-Leitner: § 34 NÖ Sozialhilfegesetz 2000, ÖGBl. 9200; einkommensunabhängig gewährt, Zielgruppe: Körperbehinderung, Volljährigkeit, ab Pflegestufe 5, in eigener Wohnung oder WG lebend; kein Angebot für intellektueller Beeinträchtigung. Zuschuss dzt.: € 20,50 pro Ass.-Std.

STMK: Tel. 15. 6., Fr. Schwaiger, Abt. Soziales: Wer die Kriterien erfüllt, Voraussetzung: Nur Menschen mit körperlicher Behinderung (weil sie selbst aus dem Umfeld Ass. suchen und einschulen müssen), alleine in Wohnung lebend bzw. ev. berufstätig.

T: „Selbstbestimmt Leben“, Herr Mag. Zengin: Kein Rechtsanspruch, Kann-Leistung und liegt im Ermessen der Sacharbeiters: Kriterien wurden entwickelt wie max. 250 Std./Monat; unabhängig von Pflegegeldbezug bzw. Behinderung. Selbstbehalt gerichtet nach Pflegegeld und Einkommen.

VBG: Fr. Neiz: Lt.: § 12 Pflegegeldbezieher, Selbstbehalt, Umfang der Leistungen kann Land näher regeln. Kein Rechtsanspruch persönliche Assistenz gibt es noch nicht, ist in Ausarbeitung ab 1. 1. 2011 (Ass. keine freien DV etc.), nur Familienentlastungs-Gutscheine können beantragt werden.

Wien: FSW Prenner-Kasper: Ab Herbst Grundlage geschaffen, in welcher Persönliche Assistenz für bestimmte Personengruppen verankert sein wird. Fr. Schachinger: Kein Rechtsanspruch; es sind jedoch Menschen mit Sinnesbehinderungen und Menschen, denen der FSW die sogenannte „Selbstverwaltungs-kompetenz“ abspricht, ausgeschlossen. Auch Menschen, die bei Antragstellung das Pensionsalter erreicht haben, bekommen keine PGE. Weiters sind BezieherInnen der Pflegegeldstufen 1 und 2 ausgeschlossen und damit viele Menschen mit Lernschwierigkeiten. (2) JA, ABER nicht für alle Beeinträchtigungsformen (siehe Frage 18.)

QUESTION 20/FRAGE 20

NÖ: „Jein“ – Heimaufenthaltsgesetz & UBG.

SBG: Ja, aber: Bewohneranwaltschaft (Bewohnervertretung).

Wien: Ja, aber. Es gibt keine ausreichenden außerinstitutionellen Unterstützungsstrukturen, z. B. für Menschen mit intellektuellen Behinderungen. (2) JA, ABER: Institutionen werden nicht ausreichend von außen überprüft, eine nicht ausreichende Informationen über die Wahlfreiheit des Wohnortes an die KlientInnen ist zu vermuten.

QUESTION 23/FRAGE 23

BGL: Herr Vucovitsch: WAI AA WCAI 1.0 siehe auch Symbol <http://www.burgenland.at/>

NÖ: Land NÖ Hr. DI Stiller: WCAI 1.0 AA

Oö: >25%<75% zugänglich gemäß WCAG 2.0 or WCAG 1.0. (Mail Fr. Eichinger von Landesregierung).

SBG: Laut Angabe auf Website www.salzburg.gv.at entspricht in weiten Teilen den Zugänglichkeitsrichtlinien für Webinhalte WCAG 1.0 Konformitätsstufe AAA. Die technische Umsetzung der barrierefreien Website erfolgte nach den Web Content Accessibility Guidelines 1.0 (Essl-Foundation-Recherche Internet).

STMK: www.steiermark.at; WAI AA WCAI 1.0 (Essl-Foundation-Recherche Internet).

T: www.innsbruck.at; WAI AA WCAI 1.0, (Essl-Foundation-Recherche Internet).

Wien: (1) Eine barrierefreie Gestaltung von Webseiten offizieller Regierungs- und Verwaltungskörperschaften ist durch das E-Government-Gesetz seit 1. 1. 2008 vorgeschrieben. Durch dieses Gesetz wird implizit auch die Anwendung der erst nachträglich veröffentlichten WCAG-2.0-Kriterien nahegelegt. Da dies nicht explizit erfolgt, und die Umsetzung immer auch nicht zu 100% erfolgt bzw. noch nicht erfolgt ist, ist eine Zahl von 25–75% Zugänglichkeit gemäß WCAG 2.0 realistisch – (als Vorbild sei hier die Seite www.wien.gv.at genannt). (2) Email Hr. Rederer, www.wien.gv.at: 75% zugänglich gemäß Universal Guidelines WCAG 2.0.

Additional Remarks/Ergänzung zu Erläuterungen:

The Essl Foundation also asked the persons in charge of the websites of the provincial government, but most of the questions

remained unanswered. Due to the few responses (from Vienna, Lower Austria, Upper Austria, Salzburg and Burgenland), the Essl Foundation took a look at a sampling of websites and evaluated whether they referred to barrier-free accessibility in accordance with WCAG 1.0/2.0 or WAI. (Several even did at the "A", "AA" or "AAA" level of conformity, which, however, was not taken into account). / Von der Essl Foundation wurden alle Verantwortlichen für die Webseiten der Landesregierung befragt, die meisten Anfragen blieben jedoch unbeantwortet. Aufgrund der wenigen Rückmeldungen (Wien, NÖ, OÖ, Salzburg und Burgenland) wurden von der Essl Foundation stichprobenartig einzelne Webseiten angesehen und ausgewertet, ob auch auf die Barrierefreiheit nach WCAG 1.0/ 2.0 oder WAI Bezug genommen wurde. (Einige nahmen auch auf die Stufen der Konformität „A“, „Double-A“ oder „Triple-A“ Bezug, was aber nicht berücksichtigt wurde.)

QUESTION 25/FRAGE 25

KTN: Tel. LSI, Mag. Zöhrer: Im besten Einvernehmen mit den Eltern entschieden, nie gegen den Willen der Eltern;

NÖ: LSDir. Hofrat Koprax, Mail 12. 5: Gemäß § 8a Schulpflichtgesetz 1985 sind schulpflichtige Kinder mit sonderpädagogischem Förderbedarf berechtigt, die allgemeine Schulpflicht entweder in einer für sie geeigneten Sonderschule oder Sonderschulklasse oder in einer den sonderpädagogischen Förderbedarf erfüllenden Volksschule, Hauptschule oder Unterstufe einer allgemeinbildenden höheren Schule zu erfüllen, soweit solche Schulen (Klassen) vorhanden sind und der Schulweg den Kindern zumutbar oder der Schulbesuch aufgrund der mit Zustimmung der Eltern oder sonstigen Erziehungsberechtigten des Kindes erfolgten Unterbringung in einem der Schule angegliederten oder sonst geeigneten Schülerheim möglich ist.

VBG: Tel. LSI Gorbach: „Ja.“ Eltern haben das Recht auf Wahlfreiheit (bundesweite Regelung). Ein Kind, das künstliche Ernährung braucht, wird vermutlich eher in einer Sonderschule gehen. In ländlichen Gebieten wie Montafon, Bregenzerwald, wo 12 Kinder/pro Klasse sind, ist der Aufwand von 1 Kind zu 1 Betreuung nicht möglich. Die räumlichen Begebenheiten in Vorarlberg sind so, dass es durch die vielen Täler viele Kleinschulen (1–4 Klassen) gibt. In Finnland gibt es nur große Schulen, wo Transportmöglichkeiten etc. gegeben sind.

Wien: (1) JA, ABER: Jedes Kind hat das Recht gemäß den Bestimmungen im Schulorganisationsgesetz, Schulpflichtgesetz und Schulunterrichtsgesetz eine Regelvolksschule zu besuchen. ABER: In der Praxis wird Kindern, je stärker ihr Behinderungsgrad ist und je aufwändiger die Adaptierung einer Regelschulklasse in Wohnortnähe wäre, umso mehr zur Sonderschule geraten. In Wien gibt es jedoch durch die große Anzahl von Schulen und dem gut ausgebauten Nahverkehr bzw. Fahrtendienst tatsächlich gute Möglichkeiten.

T: Tel. LSI Federspiel: JA, Wahlfreiheit; Umsetzbarkeit prüft Bezirksbehörde; oftmals keine Ressourcen vorhanden.

Additional Remarks/Ergänzung zu Erläuterungen:

See remarks in the international section and the bias resulting from the disparity between the legal situation and current practice. / Siehe auch die Ergänzungen im internationalen Vergleich und die Verzerrungen, die sich aus dem Unterschied zwischen rechtlicher Situation und gelebter Praxis ergeben.

QUESTION 26/FRAGE 26

Additional Remarks/Ergänzung zu Erläuterungen:

This question was not analysed (see remarks in the international section).

Diese Frage wurde nicht analysiert (siehe die Erläuterungen im internationalen Teil).

QUESTION 37/FRAGE 37

Wien: Tel: 7. 6. mit Fr. Dr. Eichinger-Kniely/WKO Lehrlingsausbildung: Integrative Berufsausbildung (IBA) gibt es als Teilqualifizierung und verlängerte Lehre und in ganz Österreich. Möglichkeit besteht für Jugendliche mit körperlicher und geistiger Behinderung. Zahlen (Stichtag 31. 5. 2010): Verlängerte Lehre 3.295 (davon 2.400 in Unternehmungen); TQ 1.459 (davon 685 in Unternehmungen). (2) Gespräch ÖAR-Meierschitz vom 10. Juni 2010; das gibt es theoretisch, idP sind es aber Kinder mit Migrationshintergrund, die das nützen.

(3) Im Berufsausbildungsgesetz wird unter der Bezeichnung „Integrative Berufsausbildung“, Verlängerte Lehre sowie Teilqualifizierende Lehre angeboten, in der Praxis in Wien gibt es aber viele Probleme, da es ohnehin nur wenige Lehrstellen in Unternehmen gibt (auch für nicht-behinderte Jugendliche), werden Lehrstellen in überbetrieblichen Lehrwerkstätten angeboten. Die Chance auf einen späteren Berufseinstieg sinkt dadurch. Das Modell der Teilqualifikation wird überhaupt nur sehr selten angeboten, wodurch Jugendliche mit intellektuellen Beeinträchtigungen überhaupt nicht von der „Integrativen Berufsausbildung“ profitieren. Wenigstens gibt es seit der Novelle des BAG, die am 1. 7. 2010 in Kraft getreten ist, die Möglichkeit einer Teilzeitlehre der Teilzeitqualifikation von mindestens 20 Wochenstunden.

QUESTION 38/FRAGE 38

Wien: (1) Mail v. 7. 5., Hr. Minar (MA 62): In Wien werden derzeit rund 500 barrierefrei zugängliche Wahllokale eingerichtet. Sollte das zuständige Wahllokal nicht barrierefrei zugänglich sein, können Menschen mit Behinderungen oder Menschen mit mangelnder Mobilität mit einer Wahlkarte per Briefwahl ihre Stimme abgeben oder in einem beliebigen barrierefrei zugänglichen Wahlkarten-Wahllokal . . . Wahlberechtigte Personen, die nicht in der Lage sind, den Stimmzettel ohne fremde Hilfe auszufüllen, können sich von einer Vertrauensperson führen und beim Ausfüllen des Stimmzettels helfen lassen. Wählen bei mangelnder Mobilität oder Bettlägerigkeit: Alle wahlberechtigten Personen, die wegen mangelnder Mobilität oder Bettlägerigkeit (wegen Krankheit, Alter oder sonstigen Gründen) kein Wahllokal persönlich aufsuchen können, können auf entsprechenden Antrag von einer mobilen Wahlkommission besucht werden. Für Blinde und sehbehinderte Personen stehen in jedem Wiener Wahllokal Stimmzettel-Schablonen zur Verfügung. (2) Ja, ABER: Einschränkungen sind sicherlich immer wieder vorhanden, wenn auch grundsätzlich bauliche Barrierefreiheit angestrebt wird.

SBG: Mail v. 17. 5., Mag. Bergmüller: Die landesrechtlichen Wahlbestimmungen sind in vielen relevanten Punkten analog den bundesgesetzlichen Bestimmungen ausgestaltet. Der barrierefreie Zugang zu Wahllokalen bzw. zur Wahlurne ist nach meiner Meinung primär kein wahrrechtliches Problem, sondern eher ein Problem des generellen barrierefreien Zugangs zu Amtsgebäuden. Alle Gemeinden sind bemüht, zumindest ein Wahllokal in der Gemeinde barrierefrei zugänglich zu haben. Notwendige Umbaumaßnahmen an Amtsgebäuden in den Gemeinden können nur nach Maßgabe der verfügbaren finanziellen Mittel vorgenommen werden. Stimmzettel mit Braille-Schrift wurden auf kommunaler Ebene (Gemeindewahlen) in Salzburg bereits zur Anwendung gebracht. Da nur sehr wenige blinde bzw. sehschwache Personen in der Lage sind, diese Schrift zu lesen, wurde wieder davon abgegangen, die Stimmzettel (zusätzlich) in Braille-Schrift herzustellen. Sehr wohl werden bei Landtagswahlen Stimmzettelschablonen zur Ver-

fügung gestellt, im Jahr 2009 wurden auch Schablonen für die Ausfüllung der Wahlkarte ausgegeben. Es wird angemerkt, dass (auch) bei der Landtagswahl die Möglichkeit besteht, die Stimme außerhalb des Wahllokales im Wege der Briefwahl abzugeben. **T:** Mail v. 7. 5., Hr Dr. Christ, Tiroler Landesreg.: Ja, Aber. § 37 Abs. 4 der Tiroler Landtagswahlordnung 2008 sieht etwa vor, dass nach Maßgabe der technischen Möglichkeiten vorzusehen ist, dass in jeder Gemeinde zumindest ein für Körperbehinderte barrierefrei erreichbares Wahllokal vorhanden ist. Für blinde und schwer sehbehinderte Wähler sind nach Maßgabe der technischen Möglichkeiten geeignete Leitsysteme vorzusehen. Nach § 41 Abs. 1 leg. cit. hat die Wahlbehörde Blinden oder schwer sehbehinderten Wählern als Hilfsmittel zur Ermöglichung der selbstständigen Ausübung des Wahlrechtes Stimmzettel-Schablonen zur Verfügung zu stellen. Körper- oder sinnesbehinderte Wähler dürfen sich von einer Person, die sie selbst auswählen können und gegenüber dem Wahlleiter bestätigen müssen, führen und sich bei der Wahlhandlung helfen lassen. **VBG:** Mail v. 17.5. Fr. Schenker Mayer (Vbg Landesregierung): Auszüge aus dem Vorarlberger Landtagswahlgesetz in Bezug auf Wählen mit Behinderung: § 34
Leitung der Wahl, Ausstattung der Wahllokale . . . (4) Das Wahllokal des nach § 4 Abs. 4 für die Wahlkartenwähler bestimmten Wahlsprengels soll nach Möglichkeit für Gehbehinderte benützlich sein. § 42 Stimmabgabe durch Menschen mit Körperbehinderung oder schwerer Sehbehinderung, Menschen mit Körperbehinderung oder schwerer Sehbehinderung können sich bei der Stimmabgabe von einer Begleitperson führen und helfen lassen, wenn sie dieser Hilfe bedürfen. Von diesem Fall abgesehen, darf die Wahlzelle stets nur von einer Person betreten werden. Die Stimmabgabe mit Hilfe einer Begleitperson ist in der Rubrik „Anmerkung“ des Abstimmungsverzeichnisses zu vermerken.

QUESTION 39/FRAGE 39

Wien: (1) Tel. Dr. Karner, BMUKK: Es gibt keine rechtliche Verpflichtung, in Rahmenzielvereinbarung aufgenommen bzw. Hinweis im Vermittlungsprogramm diese Zielgruppe mit einzubeziehen. Belvedere bietet spezielle Führungen für Seh- und Gehörbehinderte Personen an (mit Gebärdendolmetscher): <http://www.belvedere.at/jart/prj3/belvedere/main.jart?rel=de&content-id=1172842070196&reserve-mode=active>; Unter (3) auf http://www.hilfsgemeinschaft.at/index.php?id=127&no_cache=1 sind Museen angeführt, die Ausstellungen für Sehbehinderte anbieten. Multimediaguide für Gehörlose im Technischen Museum und Mumok, wo man mit Handschuhen und Mitarbeiter auch Kunstwerke „begreifen“ kann. Blindenhunde sind meist zugelassen. (2) Nein, es gibt keine mir bekannten gesetzlichen Bestimmungen. Allerdings bemühen sich viele Museen um ein attraktives Angebot für Kunden mit Seh- und Hörbeeinträchtigungen, welches letztlich allen Kunden zugute kommt.

Additional Remarks/Ergänzung zu Erläuterungen:

In contrast to Question 40, here the legal obligation, which exists at neither the federal or provincial level, was questioned. Some museums and exhibition halls are mentioned which provide good service. / Hier wurde im Unterschied zu Frage 40 nach der rechtlichen Verpflichtung gefragt, die es weder in Österreich noch einem der Bundesländer gibt. Exemplarisch werden einige Museen und Ausstellungshäuser genannt, die hier einen guten Service anbieten.

QUESTION 40/FRAGE 40

Additional Remarks/Ergänzung zu Erläuterungen:

The ESSL Foundation asked a larger venue in every federal province for a self-assessment (see bibliography for details), and all of them answered "green". In contrast, not a single NGO gave a rating better than "orange" (no NGO gave answers for Burgenland and Vorarlberg). Due to the inability to specify, an "orange" rating was generally assigned. There is potential for improvement in the next survey, for example, by inquiring about the biggest venues (which in most cases would be one of the stadiums) or about the biggest covered venue.

Die ESSL Foundation fragte in jedem Bundesland ein größeres Veranstaltungshaus nach ihrer Selbsteinschätzung (Details siehe Quellenangabe), und alle davon antworteten mit „grün“. Umgekehrt bewerteten alle NGOs das Angebot nie besser als „orange“ (von Burgenland und Vorarlberg hatte kein NGO eine Bewertung abgegeben). Aufgrund der mangelnden Präzisierungsmöglichkeit wurde hier deswegen generell „orange“ vergeben. Bei dieser Frage besteht entsprechend in der nächsten Erhebung Verbesserungspotenzial, beispielsweise durch die beispielhafte Erfragung der größten Veranstaltungsräumlichkeiten (was in den meisten Fällen das Stadion wäre) oder der größten überdachten Veranstaltungshalle.

QUESTION 41/FRAGE 41

Additional Remarks/Ergänzung zu Erläuterungen:

These questions remained unanswered by most of the provincial governments or referred to the reports on the social system ("Sozialberichte") anyway. As no other information was found on this subject, the ESSL Foundation only analysed the reports on the "Sozialberichte". / Die Anfragen blieben von den meisten Landesregierungen unbeantwortet bzw. verwiesen diese sowieso auf den Sozialbericht des jeweiligen Bundeslandes. Da keine anderen Informationsquellen zu diesem Thema bekannt wurden, wertete die ESSL Foundation ausschließlich diese Sozialberichte aus.

QUESTION 42/FRAGE 42

Wien: Zahlen sind unzuverlässig, da es in allen Bereichen keine systematische Erfassung des Kriteriums Behinderung gibt (zum Teil auch von Betroffenen selbst nicht gewollt, aus Angst vor Stigmatisierung).

Additional Remarks/Ergänzung zu Erläuterungen:

For this question every federal province was rated "red", as not one of them has a better database than the Republic of Austria. / Für diese Frage wurde generell „rot“ vergeben, da kein Bundesland über eine bessere Datenbasis verfügt als die Republik Österreich.

QUESTION 44/FRAGE 44

SBG: Mail v. 11. 5., Mag. Viehauser, Büro Scharer. „Ja, aber“. Anm: Rechtlich gesehen, ist im Wesentlichen die Republik Österreich Unterzeichner der UN-Konvention. Ein Bundesland kann nur im Rahmen seiner Kompetenzen handeln.

Wien: Mail v. 31. 5., Büro STR Mag. Wehsely: Derzeit befindet sich eine Novelle zum Wiener Antidiskriminierungsgesetz in Begutachtung, die am 1. Juli 2010 im Landtag beschlossen werden und im Herbst in Kraft treten soll. Gemäß dieser Novelle soll in Entsprechung des Art. 33 der UN-Konvention über die Rechte von Menschen mit Behinderungen bei der Stelle zur Bekämpfung von Diskriminierungen eine weisungsunabhängige Monitoringstelle für das Land Wien eingerichtet werden, in die sowohl Vertreterinnen und Vertreter der organisierten Menschen mit Behinderung als auch unmittelbar betroffene Personen einbezogen werden.

Bibliography

REGARDING CONVENTION, LEGAL LEGISLATION, LEGAL REGULATION ARTIKEL DIE CONVENTION BETREFFEND, GESETZE, GESETZLICHE REGELUNGEN

No. Nr.	Country Land	Question Frage	Topic Thema	Link
1.01	AT	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/default.asp?id=150
1.02	AT	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/countries.asp?id=166
1.03	DE	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/default.asp?id=475 ;
1.04	CH	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/default.asp?navid=19&pid=258
1.05	IRL	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/documents/maps/enablemap.jpg
1.06	UK	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/countries.asp?id=166
1.07	US	1	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/countries.asp?id=166
1.08	DE	2	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/default.asp?id=475 ;
1.09	CH	2	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/default.asp?id=475 ;
1.10	IRL	2	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/documents/maps/enablemap.jpg
1.11	UK	2	The UN Convention on the rights of people with disabilities	http://www.un.org/disabilities/default.asp?id=475
1.12	AT	3	The UN Convention on the rights of people with disabilities/ National Translations	http://www.un.org/disabilities/default.asp?navid=13&pid=150
1.13	AT	3	Mitteilung der Kommission – Situation behinderter Menschen in der erweiterten Europäischen Union: Europäischer Aktionsplan 2006–2007, Brüssel am 28.11.2005	
1.14	DE	3	Bundesministerium für Arbeit und Soziales	http://www.bmas.de
1.15	UK	3	The Office for Disability Issues (Accessed 21/5/10)	http://www.odi.gov.uk/working/un-convention
1.16	US	3	Harvard's website	www.hpod.org
1.17	AT	6	Bundes-Behindertengleichstellungsgesetz (BGStG), BGBl. I Nr. 67/2008, Art. 1 § 19	http://www.jusline.at/Bundes-Behindertengleichstellungsgesetz_(BGStG).html
1.18	AT	6	Österreichisches Institut für Bautechnik, OIB-300.4-012/07 OIB-Richtlinie 4, 4 Ausgabe April 2007	http://www.oib.or.at/
1.19	AT	6	Österreichisches Normungsinstitut: Ö NORM B 1600 (2005): Barrierefreies Bauen - Planungsgrundlage.	
1.20	AT	6	Burgenländisches Baugesetz, LGBl. Nr. 53/2008, § 4	
1.21	AT	6	Oö. Bautechnikverordnung, LGBl. Nr. 110/2008, § 17b	
1.22	AT	6	Technische Bauvorschriften 2008, LGBl. Nr. 93/2007, § 30	
1.23	AT	6	Tiroler Antidiskriminierungsgesetz 2005, LGBl. Nr. 25/2005, 4. Abschnitt, § 14	
1.24	AT	6	Wiener Stadtentwicklungs-, Stadtplanungs- und Baugesetzbuch, 02/04/2009 LGBl. Nr. 25/2009, § 115	
1.25	AT	6	Kärntner Bauordnung 1996, § 6 lit a bis c, § 18; Kärntner Bauvorschriften 1985	
1.26	AT	6	Salzburger Bautechnikgesetz, LGBl. Nr. 47/1999, § 33; LGBl. Nr. 12/1995, 38a	
1.27	AT	6	Vorarlberger Bautechnikordnung; Fassung LGBl. Nr. 58/2008 § 34, § 35	
1.28	AT	6	Steiermärkisches Baugesetz - Stmk. BauG, LGBl. Nr. 13/2010, &4 und § 111	
1.29	IRL	6	Disability Act, Section 25	www.irishstatutebook.ie
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Overview of Weblinks

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Hansjörg Höfer, Alltag mit Behinderung: Ein Wegweiser Behinderung: Alle Leistungen und Rechte, die Ihnen zustehen (Wegführer durch das deutsche Rechtssystem)	
Free movements and equal opportunities for All	http://www.livingall.eu
WHO Study on wheelchairs in developing countries	http://www.who.int/disabilities/technology/Wheelchair_full_report.pdf
International Disability Rights Monitor Europe (2007)	http://idrmnet.org/pdfs/IDRM_Europe_2007.pdf
Arbeit und Behinderung: diverse Studien	http://www.arbeitundbehinderung.at/de/publikationen/studien.php
Towards a Common Language for Functioning, Disability and Health (WHO)	www.who.int/classifications/icf/training/icfbeginnersguide.pdf
Situation of disabled people in the European Union: the European Action Plan 2008-2009	http://eur-lex.europa.eu
A Strategy for Rehabilitation, Equalization of Opportunities, Poverty Reduction and Social Inclusion of People with Disabilities, CBR (Joint Position Paper 2004)	http://www.who.int/disabilities/publications/cbr/en/index.html
Datenbank für Studien über Kinder und Jugendliche mit Behinderungen	https://www.ideadata.org/default.asp

INTERNET

The Circle of Inclusion Web Site is for early childhood service providers and families of young children	http://www.circleofinclusion.org/
Harvard Law School Project on Disability	http://www.hpod.org/
Themen Kinderarmut und Disparität, Blog der Unicef	http://www.unicefglobalstudy.blogspot.com/

ORGANISATIONS/ORGANISATIONEN

EUROPE/EUROPA

Academic Network of European Disability Experts (ANED)	http://www.disability-europe.net/en/contact?jsEnabled=1
City Group (Washington Group on Disability Statistics)	http://www.cdc.gov/nchs/washington_group.htm
Council of Europe/Europarat	http://www.coe.int/
Disability Interest Group (initiated within the framework of the EFC)	http://www.efc.be
European Disability Forum (EDF)	http://www.edf-feph.org/
European Foundation for the Improvement of Living and Working Conditions	http://www.eurofound.europa.eu/
European Quality in Social Services (EQUASS)	http://www.epr.eu/index.php/equass
International Disability Rights Monitor (IDRM)	http://www.idrmnet.org/
UN Enable	http://www.un.org/esa/socdev/enable/rights/idc05.htm
WHO Disabilities	http://www.who.int/topics/disabilities/en/

AUSTRIA/ÖSTERREICH

atempo.at - zur Gleichstellung von Menschen	http://www.atempo.at/de/
Bioethikkommission d. Bundeskanzleramts Österreich	http://www.bundeskanzleramt.at/DesktopDefault.aspx?TabID=3455&Alias=BKA
dabei - Dachverband für Berufliche Integration (Arbeitsassistenz)	http://www.dabei-austria.at/
Die Grünen - Pochen auf Umsetzung der UN-Konvention für Behinderte	http://www.gruene.at/behinderte_menschen/1/lesen/55959/
Monitoring Ausschuss zur Überwachung der Umsetzung der UN Konvention	http://www.monitoringausschuss.at/
Wiener Assistenzgenossenschaft (Persönliche Assistenz für Menschen mit Behinderung)	http://www.wag.or.at/index.php?cont=100&subcont=28

OTHER COUNTRIES/ANDERE EINZELSTAATEN

Leonard Cheshire Disability (UK)	http://www.lcdisability.org/?lid=31
Netzwerk Leichte Sprache (D+AT)	http://www.leichtesprache.org/mitglieder.htm
Rechtskanzlei Menschen und Rechte (D)	http://www.menschenundrechte.de/
Deutsches Institut für Menschenrechte (D)	http://www.institut-fuer-menschenrechte.de/de/das-institut/aufgaben.html
Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege (BAGFW) (D)	http://www.bagfw.de/wir-ueber-uns/
Bundesarbeitsgemeinschaft Werkstätten für behinderte Menschen (D)	http://www.bagwfbm.de/
Umbrella Organisation – RADAR (UK)	http://www.radar.org.uk/radarwebsite/
Egalité Handicap (CH)	http://www.egalite-handicap.ch/news.html

Insieme (CH)	http://www.insieme.ch/
National Organization on Disabilities (US)	http://www.nod.org/
American Association of People with Disabilities (US)	http://www.aapd.com/site/c.pvI1IkNWJqE/b.5406299/k.FBCC/Spotlight.htm
City Scan (US)	http://www.childtrends.org/what_works/city_scan/intro.htm

DATA/DATEN

childinfo.org Statistics by Area - Child Disability	http://www.childinfo.org/disability.html
Childinfo - Monitoring the Situation of Children and Women	http://www.childinfo.org/
UN Millennium Development Goals	http://www.un.org/millenniumgoals/
UN Statistics Division - Demographic and Social Statistics	http://unstats.un.org/unsd/demographic/sconcerns/disability/
UN Stats Sample for disability	http://unstats.un.org/unsd/demographic/products/dyb/DYB%20questionnaires/Dis_part1.pdf
UN Guidelines and Principles for the Development of Disability Statistics	http://unstats.un.org/unsd/publication/SeriesY/SeriesY_10e.pdf
Unicef Statistiken Weltweit	http://www.unicef.org/infobycountry/index.html
WHO International Classification of Functioning, Disability and Health (ICF)	http://www.who.int/classifications/icf/en/
Deutscher Bildungsserver - Statistiken zu Themen des Behindertenwesens	http://www.bildungsserver.de/zeigen.html?seite=1012
Eurostat - Reference Metadata in Euro SDMX Metadata Structure (ESMS)	http://epp.eurostat.ec.europa.eu/cache/ITY_SDDS/DE/hlth_empdis_esms.htm
HANDYNET-Österreich Artikeldatenbank	http://handynet-oesterreich.bmsk.gv.at/script/load.asp?page=000/00000003.htm
Irish Census 2007	http://www.cso.ie/census/census2006results/volume_11/Volume11_2006.pdf
Measuring disability UN, WHO usw - methods	http://www.aihw.gov.au/eventsdiary/iidf2006/abstracts_pdf_doc/marikje_kleijn.pdf
Studierenden Sozialerhebung – Ergebnisse (Österreich)	http://ww2.sozialerhebung.at/Ergebnisse/
Statistik Teilhabe behinderter Menschen am Arbeitsleben	http://www.pub.arbeitsagentur.de/hst/services/statistik/201004/iiiia5/rf/rehad.pdf
StatsRRTC - Disability Statistics and Demographics report 2009 (US)	http://disabilitycompendium.org/
STATISTIK AUSTRIA	http://www.statistik.at/web_de/statistiken/soziales/armut_und_soziale_eingliederung/index.html
STATISTIK SCHWEIZ - Gleichstellung von Menschen mit Behinderung	http://www.bfs.admin.ch/bfs/portal/de/index/themen/20/06.html
UNESCAP Budapest Initiative Data	http://www.unescap.org/stat/disability/pre-pilot-training/comparative-Workgroup-Budapes-report.pdf
US Census Bureau - Disability Statistics	http://www.census.gov/hhes/www/disability/disability.html

OFFICIAL DOCUMENTS/OFFIZIELLE DOKUMENTE

Disability and the Millennium development goals	http://www.disabilitykar.net/learningpublication/developmentgoals.html
EU Action Plan 2008-09 on disabilities	http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0738:FIN:EN:PDF
EU Action Plan Annex & Data	http://ec.europa.eu/transparency/regdoc/rep/2/2007/EN/2-2007-1548-EN-1-0.Pdf
Employability on Persons with disabilities (ILO)	http://www.ilo.org/skills/lang-en/index.htm
UN Enable - Convention on the Rights of Persons with Disabilities [A-RES-62-127]	http://www.un.org/disabilities/default.asp?id=695
UN World Programme of Action concerning Disabled Persons	http://www.un.org/disabilities/images/A-63-183.DOC
UN Enable - Standard Rules on the Equalization of Opportunities for Persons with Disabilities [A-RES-48-96]	http://www.un.org/disabilities/default.asp?id=75
UN Enable - Resource on International Norms And Standards	http://www.un.org/esa/socdev/enable/comp001.htm
UNICEF on the UN Disabilities Convention	http://www.unicef.org/media/media_43901.html?q=printme
Worldbank Measuring Disability Prevalence 2007	http://siteresources.worldbank.org/DISABILITY/Resources/Data/MontPrevalence.pdf
WHO Disability Action plan 2006-11	http://www.who.int/disabilities/publications/dar_action_plan_2006to2011.pdf

VARIOUS COUNTRIES/ANDERE EINZELSTAATEN

SPÖ-ÖVP Regierungsprogramm (BIZEPS-INFO)	http://www.bizeps.or.at/news.php?nr=9278
Übereinkommen der Vereinten Nationen über die Rechte von Menschen mit Behinderungen	http://www.bmas.de/portal/25970/2008_04_30_rechte_von_menschen_mit_behinderungen.html
Behindertenbericht Deutschland 2009	http://www.bmas.de/portal/9828/a125__behindertenbericht__2009.html
Behindertenbericht Österreich 2008-09	http://www.bmsk.gv.at
Szociális és Munkaügyi Minisztérium - A Fogytékossággal él_ személyek jogairól szóló Egyezmény	http://www.szmm.gov.hu/main.php?folderID=16485
Office for Disability Issues (UK) - Evidence and information reflecting disabled people's experiences	www.officefordisability.gov.uk