



# Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General  
22 March 2013

Original: English

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## Committee on the Elimination of Discrimination against Women

### Concluding observations on the seventh and eighth periodic reports of Austria, adopted by the Committee at its fifty- fourth session (11 February–1 March 2013)

1. The Committee considered the combined seventh and eighth periodic report of Austria (CEDAW/C/AUT/7-8) at its 1103th and 1104th meetings, on 13 February 2013 (see CEDAW/C/SR.1103 and 1104). The Committee's list of issues and questions is contained in CEDAW/C/AUT/Q/7-8, and the responses of the Government of Austria are contained in CEDAW/C/AUT/Q/7-8/Add.1.

#### A. Introduction

2. The Committee commends the State party for its combined seventh and eighth periodic report, which follows the Committee's guidelines for the preparation of periodic reports, including page limitations, and takes into account the Committee's previous concluding observations. The Committee expresses its appreciation to the State party for its oral presentation, the written replies to the list of issues and questions raised by the pre-session working group, the further clarification to the questions posed orally by the Committee, and the open and constructive dialogue.

3. The Committee commends the State party for its large and high-level delegation, headed by Helmut Tichy, Legal Advisor in the Federal Ministry for European and International Affairs, and comprising representatives from all concerned ministries as well as the Permanent Representative of Austria to the United Nations in Geneva.

4. The Committee welcomes the State party's recognition of the positive contribution made by non-governmental human rights and women's organizations in the implementation of the Convention, and also welcomes the participatory process in the preparation of the report.

#### B. Positive aspects

5. The Committee welcomes that from 1 January 2013, all Federal Ministries and supreme administrative bodies are required under article 13(3) of the Federal Constitution and the Federal Budget Law to set equality objectives in all fields, whose implementation is subject to review by the Austrian Court of Accounting.

6. The Committee welcomes the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance on 7 June 2012 and the Convention on the Rights of Persons with Disabilities on 26 September 2008.

### **C. Principal areas of concern and recommendations**

#### **Parliament**

7. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of government. It invites the State party to encourage its Federal Parliament and Provincial Parliaments, in line with their procedures, to take the necessary steps with regard to the implementation of the present concluding observations between now and the next reporting process of the State party under the Convention.**

#### **Reservations**

8. Following the State party's explanations on the present scope of the reservation on article 11 and the intended rewording of the reservation to focus it on the three limited elements concerned, the Committee is convinced that it is possible for the State party to withdraw its reservation since the scope of protection sought is already afforded by paragraph 1 (f) of article 11.

9. **The Committee urges the State party to withdraw the remaining reservation to article 11.**

#### **Constitutional framework and implementation of the Convention**

10. The Committee notes the complexity of the anti-discrimination legislation and structures, and notes that the State party intends to gradually unify federal legislation. It acknowledges the existence of the Equal Treatment Commission and other bodies with mandates on the protection of women's equality. However, it is concerned that the system is expensive and cumbersome, especially where protecting women who suffer multiple forms of discrimination. It is also concerned that the amendment to the Equal Treatment Act that aims at increasing the level of protection against discrimination with regard to access to goods and services ("levelling-up") has stalled. It is further concerned that gender equality structures, their mandates and resources, vary between the Länder (provinces).

11. **The Committee urges the State party to conduct a study to assess the benefits of and/or barriers to, including the complexity of procedures women face, particularly those suffering multiple discrimination, claiming rights under existing legislation and the extent to which they are adequately compensated. It should also pursue efforts to ensure that the amendment to the Equal Treatment Act on "levelling-up" is enacted.**

12. While noting that the federal structure of the State party entails a repartition of competences between the Länder (provinces) and the Federal State, with institutional links between them, the Committee is concerned that these may not be sufficient to prevent persisting disparities in the implementation of the Convention across the country.

13. **In view of the Federal Government's primary responsibility for the implementation of the Convention, the State party should ensure that institutional mechanisms of coordination between the Federal State and Länder are efficient and guaranteed, and lead to a unified enjoyment of equality legislation and national plans of action across all provinces.**

### **National machinery for the advancement of women**

14. The Committee appreciates the progress made by the State party in implementing its sectoral action plans on gender equality but it regrets the absence of a comprehensive gender equality national action plan. It notes that the State party has agreed to consider adopting a comprehensive human rights national action plan following the State party's review under the universal periodic review mechanism in 2011.

**15. The State party should fully integrate gender equality in a future comprehensive human rights national action plan, with the involvement and consultation of all sectors and levels of Government and relevant non-governmental organizations.**

16. The Committee appreciates the near doubling of the budget of the Minister of Women and the Civil Service, but is concerned that these budgetary resources for the promotion of gender equality remain inadequate considering the scope of the Minister's activities and projects.

**17. The State party should increase the budgetary allocation to the Minister for Women and the Civil Service to ensure that the resources correspond to the mandate and enable implementation of its activities. It should ensure that the budget is reviewed annually.**

18. The Committee commends the State party for the role played by the Austrian Ombudsman Board (AOB) in promoting the rights of women. It appreciates the extension of the scope of action of AOB, its high human and financial resources, and the guarantees given in the Constitution of its independence. The Committee is, however, concerned that the manner of the appointment of AOB members continues to raise issues regarding their independence thereby entailing its accreditation as a "B" status national human rights institution by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

**19. The Committee recommends that the State party sustains its efforts to receive the "A" status for AOB from the International Coordinating Committee by addressing concerns regarding the manner of appointing its members.**

### **Temporary special measures**

20. The Committee commends the results obtained by the State party in increasing the participation of women in the federal civil service and as judges and prosecutors but remains concerned at the persistence of the under-representation of women in decision-making positions in the private sector and education as well as their low level of political participation, especially at the provincial level.

**21. The Committee recommends that the State party evaluate the application of temporary special measures in the fields where progress is slow or absent.**

### **Stereotypes**

22. The Committee is concerned at the persistence of traditional attitudes and stereotypes, including the responsibility for child care, which affect the educational paths followed by women in the sciences and technical crafts, that result, in particular, in their low-level participation in apprenticeships, and ultimately reduce their chances in the labour market. Furthermore, the Committee is concerned at the prevalence of stereotypical imaging of thin fashion models which may contribute to the increasing problem of eating disorders, and girls and women resorting to aesthetic surgery in order to conform to an idealized model presented by the media.

23. **The Committee recommends that the State party:**

(a) **Continue its efforts to eliminate stereotypical images and attitudes regarding the roles of women and men in the family and in society, in accordance with articles 2 (f) and 5 (a) of the Convention, in particular by enhancing sharing of family responsibilities;**

(b) **Improve the gender awareness of teaching personnel at all levels of ways in which gender stereotypes are reproduced through various aspects of schooling;**

(c) **Take coordinated measures to encourage further diversification of educational and vocational choices of boys and girls and girls' increased participation in apprenticeships, crafts, science and technology;**

(d) **Develop counselling for girls and women suffering from eating disorders or wishing to resort to aesthetic surgery operations; and**

(e) **Engage with the media with the aim of eliminating stereotypical imaging of women, especially when it affects women's health.**

#### **Violence against women**

24. The Committee commends the State party for its leading role in combating violence against women including in the drafting of the Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). It welcomes the enactment of the Second Act on Protection against Violence of 2009, and notes the ongoing discussions to ratify the Istanbul Convention and to criminalize the breach of protection orders. However, it is concerned at the lack of a national action plan on violence against women, the residents' permit situation of migrant women living with abusive partners, the insufficiency or absence of data on the number of women murdered by their partner or ex-partner, insufficient training of the judiciary and the limited number of shelters for victims (30 throughout the territory). Furthermore, the Committee is concerned that funding contracts for shelters restrict the accommodation of asylum-seeking or undocumented women.

25. **Recalling its general recommendation No. 19 (1992) on violence against women, the Committee, urges the State party to:**

(a) **Adopt a comprehensive national action plan on violence against women as soon as possible;**

(b) **Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence and introduce criminal sanctions for non-compliance with restraining orders;**

(c) **Review regularly the situation of migrant women living with abusive partners and the conditions for the granting of regular residence permits;**

(d) **Continue training the members of the judiciary and systematically include therein training on the protection of women/girls victims of gender-based violence;**

(e) **Continue public awareness-raising campaigns on all forms of violence against women, including against women from ethnic minorities and women with disabilities, and pursue dialogue with migrant women's organizations, including those of Muslim women;**

(f) **Increase the number and funding of shelters and guarantee national coverage, including for asylum-seeking or undocumented women affected by violence; and**

**(g) Enhance the system of data collection to ensure that data are disaggregated by type of violence and by the relationship of the perpetrator to the victim.**

26. The Committee welcomes the State party's measures to include persons with a migration background in the police force and fight against racial stereotypes and xenophobia. It also commends the State party for recognizing ethnic hatred in its criminal law as an aggravating circumstance. However, the Committee is concerned at the increase of xenophobic violence against migrant women and cases of incitement to hatred and violence, particularly targeting Muslim and/or black women.

**27. The Committee urges the State party to:**

**(a) Increase the number of migrants and/or persons with a migrant background in the police force and intensify the dialogue between police and migrant communities;**

**(b) Continue providing migrant women who are victims of violence with psychosocial and legal support;**

**(c) Conduct surveys to assess the prevalence of violence experienced by migrant women, including when the motivation for a crime relates to ethnicity; and**

**(d) Pursue policy measures and programmes, including through the use of the media, to prevent xenophobic violence against migrant women and increase awareness on opportunities that migration presents.**

#### **Trafficking and exploitation of prostitution**

28. The Committee commends the consistent efforts against trafficking in women by the State party, including its international cooperation efforts and improvements in its legislation. The Committee also welcomes the creation of a human trafficking division within the Vienna Criminal Court staffed by a judge dedicated to trafficking cases. It is, however, concerned at the continuing prevalence of trafficking in women and girls for exploitation mainly for prostitution, and that the mandatory weekly health tests for sex workers may not respect their human rights to privacy and bodily integrity.

**29. The Committee calls upon the State party to review the mandatory character of the health tests for sex workers so that they comply with the International Guidelines on HIV/AIDS and Human Rights of 2006.**

#### **Participation in political and public life**

30. The Committee appreciates the progress made in the representation of women at the federal level and the modification of the Federal Equal Treatment Act raising the quota for women in the civil service to 50 per cent. The Committee is, however, concerned that women continue to be significantly underrepresented in certain fields, including diplomatic services and sports associations. Furthermore, the Committee does not share the view that the participation of women in European and provincial elections is solely the responsibility of political parties.

**31. The Committee calls upon the State party to take measures, such as quotas, and support the provinces taking these measures with benchmarks and concrete timetables, to guarantee the rapid increase of the representation of women in elected and appointed positions in provincial governments and in the parliaments, including in the European parliament, as well as in political parties, the diplomatic service and sports associations.**

**Education**

32. While commending the State party for the links made between education and labour market measures, and the importance given to vocational training, the Committee notes with concern that stereotypical choices and segregation remain a big challenge, in particular, in the sciences. It is also concerned that the school dropout rate is higher for girls than boys with migrant backgrounds, and the lack of data establishing the root causes of this phenomenon. It is further concerned about the potentially negative effect of the new collective agreements in the universities on women's career opportunities.

33. **The Committee recommends the State party to:**

**(a) Implement result-oriented budget management in the education sector to facilitate gender equality outcomes;**

**(b) Use “reflective coeducation” to overcome stereotypical choices in primary and secondary schools, including through training intervention programmes for teachers;**

**(c) Give priority to vocational orientation and counselling for girls;**

**(d) Reinforce its efforts to overcome gender segregation in the choice of disciplines and areas of study;**

**(e) Ensure that the development of collective agreements in universities do not create new risks of discrimination against women; and**

**(f) Conduct a study on the root causes of the high school dropout rate for migrant girls and ensure that its results inform policy interventions in this area so that access to education, and retention in educational institutions of migrant girls is fully guaranteed.**

**Employment and economic empowerment**

34. The Committee commends the various measures taken to support the participation of women in the labour market and facilitate the reconciliation of family and work life such as the recent introduction of unpaid leave “Daddy’s month”, the adoption of a National Action Plan on Gender Equality in the Labour Market in June 2010 and the amendment to the Equal Treatment Act of 2011, which introduces transparency in salaries, following the requirement that the Austrian Federal Civil Service and companies should produce staff income reports every two years. However, it is concerned that this obligation will only apply to companies with more than 150 employees, whereas most firms are smaller. The Committee also remains concerned at the persistence of segregation in the labour market, with women concentrated in the lower-paid service sectors and part-time work, and with the persistent and wide gender pay gap.

35. **The State party should:**

**(a) Intensify its efforts to ensure equal opportunities for women in the labour market, including through the use of temporary special measures with targets with a specific time frame;**

**(b) Continue to take proactive and concrete measures to eliminate occupational segregation and to narrow the gender pay gap;**

**(c) Create more opportunities for women to access full-time employment and continue its efforts to allow women and men to reconcile family and professional responsibilities; and**

**(d) Ensure transparency in salaries in enterprises with less than 150 employees.**

36. While noting the efforts to improve the pension scheme for those who take care of children, the Committee is concerned that pension entitlements for women continue to be lower than for men because pension-scheme contributions are affected by women's childcare career breaks and part-time employment, which phenomenon pushes them into poverty after retirement.

**37. The Committee recommends that the State party:**

**(a) Continue to evaluate its pension system with a view to identifying its impact on women and men and rectify any disparities to ensure an equal impact on women and men resulting from their roles in the provision of child care; and**

**(b) Intensify its efforts to facilitate the re-entry of mothers into the labour market after child birth, create more opportunities for women to gain access to full-time employment and encourage men, including through awareness-raising, to share responsibility for child care.**

#### **Health**

38. The Committee is concerned that abortions, albeit legal, are not reimbursed under the medical insurance scheme and that data fail to show the impact of this policy on economically disadvantaged women and girls. It is also concerned at the lack of information on the impact of the financial crisis and austerity measures on the provision of health care for women, and the risk that privatization may downgrade the quality of health services accessible to women.

**39. The Committee recommends that the State party provide financial support to economically disadvantaged women and girls needing an abortion who cannot afford it. It should also conduct a study on the impact of the economic crisis, and austerity measures, and potential privatizations, on women's health and take counter-measures, if required.**

#### **Rural women**

40. The Committee notes that the Programme for Rural Development 2007–2013, contains a chapter on equality between women and men, but it is concerned at the low level of participation of rural women in agricultural policymaking.

**41. The Committee recommends that the State party increases its efforts to improve the participation of rural women in agricultural programmes and that progress is coordinated with the provinces to ensure that women participate in the development of policies that affect them, notably through quotas.**

#### **Disadvantaged groups of women**

42. The Committee is concerned at the low levels of participation of migrant women in the labour market and their concentration in low-paid jobs, which is partly attributable to the difficulties in having their diplomas and other educational qualifications recognized.

**43. The Committee recommends the full and effective enforcement of the measures taken by the State party to protect migrant women, including the targeted measures to strengthen equal access to effective job training and placement services in order to alleviate the concentration of qualified migrant women in low-paying jobs, supported by a system for the objective assessment of their educational qualifications.**

44. The Committee is concerned at variations in the application of the Citizenship Act by Länder in the granting of permits for migrant women affected by domestic violence, and for naturalization. It is also concerned that migrant women may have more difficulties fulfilling the various requirements for residence permits, such as income limits, health insurance and/or German language skills, despite the claims of the State party's delegation that these are not absolute requirements. It is particularly concerned at the lack of data on the number of migrant women that could not meet these requirements.

**45. The Committee calls upon the State party to intensify its efforts to ensure a unified implementation of the requirements tending to the granting of long-term residence permits or citizenships for victims of domestic violence.**

46. The Committee is concerned at reports that officers who are in charge of asylum applications in the State party are not sufficiently trained to identify victims of trafficking. It is also concerned that in the absence of an explicit request by an applicant, only asylum seekers who claim to be victims of sexual violence are interviewed by adjudicators and interpreters of the same sex.

**47. The Committee urges the State party to continue to provide training to officers who are in charge of asylum applications to ensure that they adopt a gender-sensitive approach in the system for the identification of victims of trafficking.**

#### **Women with disabilities**

48. The Committee appreciates the adoption of a far-reaching National Action Plan on Disability for 2012–2020 and the inclusion therein of a chapter on women with disabilities. It is, however, concerned that women with disabilities continue to suffer multiple forms of discrimination in education, employment and political participation.

**49. The Committee recommends that the State party pursue its efforts under the current National Action Plan on Disability to address the multiple forms of discrimination suffered by women with disabilities in education, employment and political participation.**

#### **Marriage and family life**

50. While taking note of the enactment of the Act Governing Registered Partnerships of 2010, which provides for a legal framework for cohabiting couples of the same sex, the Committee notes the lack of an equivalent regulation for couples of the opposite sex, in particular concerning the provision of maintenance and the distribution of property on dissolution of the relationship, which may negatively affect the woman partner. It is also concerned at the lack of data on forced marriages.

**51. The Committee recommends the State party to regulate the rights and obligations of unmarried cohabiting couples of the opposite sex in order to provide protection with regard to the provision of maintenance and the distribution of property after the cessation of cohabitation. It should also provide data on forced marriages disaggregated by age and ethnicity of the victim, and the specific measures taken to combat forced marriages.**

#### **Socioeconomic consequences of divorce**

52. The Committee is concerned at the lack of information on the socioeconomic impact on women of the State party's divorce regime, in particular of fault-based divorce.

**53. The Committee recommends that the State party undertakes research on the socioeconomic impact of this system on women, especially on women found at fault in cases of divorce.**



**Beijing Declaration and Platform for Action**

54. The Committee calls upon the State party to utilize the Beijing Declaration and Platform for Action, in its efforts to implement the provisions of the Convention.

**Millennium Development Goals**

55. The Committee calls for the integration of a gender perspective in accordance with the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals.

**Dissemination and implementation**

56. The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. It urges the State party to give priority attention to the implementation of the present concluding observations between now and the submission of the next periodic report. The Committee therefore requests the timely dissemination of the concluding observations, in the official language of the State party, to the relevant State institutions at all levels (national, regional, local), in particular to the Government, the ministries, the Parliament and to the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities and research institutions, media, etc. It further recommends that its concluding observations be disseminated in an appropriate form at the local community level, to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, its Optional Protocol and jurisprudence, and the Committee's general recommendations to all stakeholders.

**Follow-up to concluding observations**

57. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 25 (a) and (b) and 31 above.

**Preparation of next report**

58. The Committee invites the State party to submit its ninth periodic report by March 2017.

59. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including the guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).