



**Provisional Version**

## **Committee on Equality and Non-Discrimination**

### **The political rights of persons with disabilities: a democratic issue**

#### **Report<sup>1</sup>**

Rapporteur: Ms Mechthild Rawert, Germany, Socialist Group

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<sup>1</sup> Draft resolution adopted unanimously by the committee on 24 January 2017.

## **A. Draft resolution**

1. Persons with disabilities have scarce visibility on the political stage and are still too often considered and treated as second-class citizens in most Council of Europe member States. The Assembly expresses concern with regard to the fact that persons with disabilities face multiple challenges when trying to exercise their political rights related to accessibility, inadequate support for the diversity of disabilities, an unjustified link between legal capacity and the right to vote and the frequent reluctance of political parties.
2. Political rights, such as the right to vote, stand for election and be elected, are fundamental human rights. Ensuring the respect of their enjoyment by persons with disabilities does not mean creating a set of new rights or special rights for a specific category. Guaranteeing the respect of the political rights of persons with disabilities is a democratic issue, raising questions with regard to the inclusiveness and efficiency of democratic systems, which is relevant for the whole population.
3. In this respect, the Assembly recalls that several Council of Europe texts have already underlined the need to ensure full participation of persons with disabilities in political and public life such as Assembly Resolution 1642 (2009) on Access to rights for people with disabilities and their full and active participation in society, Assembly Resolution 2039 (2015) on Equality and inclusion for people with disabilities and the recommendation adopted by the Committee of Ministers on the participation of persons with disabilities in political and public life (CM/Rec (2011)14).
4. The Assembly is convinced that the participation of persons with disabilities in political life can contribute to breaking stereotypes, changing mindsets and combating overall discrimination. Concrete measures can be taken to facilitate access to vote and participation in elections and they require political and financial commitments.
5. Political parties can play an essential role to tackle the lack of rights awareness and encourage active participation of persons with disabilities. They can contribute to raising awareness on the importance of inclusion and participation of all in political life without discrimination.
6. The Assembly welcomes the adoption of the new Council of Europe Disability Strategy 2017-2023, which presents an ambitious set of measures promoting inclusion and participation of persons with disabilities and calls for its swift implementation.
7. In the light of these considerations, the Assembly calls on Council of Europe member States, observers and partners for democracy to:
  - 7.1. Ratify without further delay, for the States which have not yet done so, the United Nations Convention on the Rights of Persons with Disabilities, which specifies international human rights standards for the protection of the rights of persons with disabilities, and ensure its full implementation;
  - 7.2. With regard to legal capacity:
    - 7.2.1. Delink the right to vote from legal capacity and full guardianship and, recalling Assembly Resolution 2039 (2015) on Equality and inclusion for people with disabilities, replace substitute decision-making mechanisms by supported decision-making mechanisms in respect of international commitments;
    - 7.2.2. Ensure the protection and respect of the political rights of persons living in long-term care institutions;
    - 7.2.3. Make complaints mechanisms with regard to the right to vote clear and accessible to all, irrespective of one's legal status;
  - 7.3. With regard to combating discrimination against and stigmatisation of persons with disabilities:
    - 7.3.1. Launch awareness-raising campaigns on the political rights of persons with disabilities, together with organisations representing persons with disabilities and disabled persons organisations, so as to combat and deconstruct stereotypes with regard to their capacity to participate in elections and run as candidates;
    - 7.3.2. Encourage visibility and participation of persons with disabilities in electoral debates in the media and the broadcasting of political programmes and debates in accessible formats;

7.3.3. Provide civic education in accessible formats;

7.4. With regard to accessibility of polling stations, information and procedures, including electoral campaigns:

7.4.1. Ensure physical accessibility of public buildings, including polling stations, national, regional and local parliaments and government buildings, and guarantee that at least one polling station provides full accessibility in every election district;

7.4.2. Ensure the provision of information about electoral processes, voting procedures, political programmes in accessible formats, including in easy to read and to understand versions, with sign interpretation when required, subtitles for videos and braille versions;

7.4.3. Provide ballot papers in accessible formats and tactile voting devices for blind persons in at least one polling station in every election district;

7.4.4. Consider linking state funding to political parties to their compliance with accessibility requirements for persons with disabilities;

7.5. With regard to assistance to voting, remote and alternative voting:

7.5.1. Provide when requested assistance to voting via supported decision-making, in respect of the voter's free will;

7.5.2. Hold training on non-discrimination and assistance to persons with disabilities for polling station officers and officers in charge of voters' registration, in cooperation with organisations representing persons with disabilities and disabled persons organisations;

7.5.3. Prepare and disseminate guidelines on assistance to voters with all kinds of disabilities, in cooperation with organisations representing persons with disabilities and disabled persons organisations;

7.5.4. Set up mobile voting units and propose, when possible, electronic voting for cases where persons with disabilities are not in a position to go to a polling station;

7.6. With regard to active participation in elections:

7.6.1. Systematise data collection on the political participation of persons with disabilities at national and local levels to ensure that relevant support measures are taken;

7.6.2. Consider the establishment of quotas for the participation of persons with disabilities in parliamentary and local elections, with a view to increasing participation and representation;

7.6.3. Provide candidates with disabilities with additional financial support to cover the extra costs they might have for the conduct of electoral campaigns.

8. The Assembly, bearing in mind its Recommendation 1598 (2003) on the Protection of sign languages in the member states of the Council of Europe and the Resolution on Sign languages and professional sign language interpreters adopted on 23 November 2016 by the European Parliament, also calls on member States, which have not yet done so, to recognise sign language as an official language.

9. The Assembly calls on national parliaments, in addition to guaranteeing accessibility of premises, to ensure the broadcasting of parliamentary debates and the provision of information on their websites in accessible formats and, as a standard, to cover costs for assistance to parliamentarians with disabilities. It also calls on national parliaments to set up systematic consultations with organisations representing persons with disabilities and disabled persons organisations for the preparation of any new draft law concerning the rights of persons with disabilities, respecting the principle "nothing about us without us".

10. The Assembly encourages political parties to demonstrate their commitment to make political life more inclusive and representative by producing and disseminating accessible political manifestos and ensuring accessibility of their meeting premises and events. Political parties should promote participation and offer persons with disabilities eligible positions on electoral lists.

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11. The Assembly recognises the essential role of organisations representing persons with disabilities and disabled persons organisations to promote the political participation of persons with disabilities and calls for financial support for awareness-raising projects in this field. It encourages further cooperation between parliaments, political parties and these organisations.

12. The Assembly decides to publish easy to understand versions of its adopted resolutions and recommendations on the rights of persons with disabilities on its website. The Assembly shall also consider the feasibility of providing these adopted texts in sign language interpretation on its website.

## **B. Explanatory memorandum by Ms Mechthild Rawert, Rapporteur**

### **1. Introduction**

1. The right to vote and to be elected is a fundamental human right. However, not all persons with disabilities can fully and equally exercise this right today in Europe. Limitations and difficulties to participate in political life are experienced in most Council of Europe member States. In addition, persons with disabilities are scarcely visible on the political stage or taken into consideration in voting processes.

2. Across the European Union (EU), about 23% of the adult population declare some form of disability.<sup>2</sup> All of us are/may become a person with disabilities and/or have a family member concerned. The political participation of persons with disabilities is not a matter of interest for one specific group only, but a relevant question for all.

3. The realisation of the right to vote, to be elected and to political participation in general for persons with disabilities is not yet considered a priority. One can wonder whether we have well-functioning and truly inclusive democratic systems if a part of the population is deprived of the full enjoyment of political rights or faces significant obstacles when trying to exercise them.

4. In times of budgetary cuts and austerity, investing in accessibility and awareness-raising campaigns is sometimes seen as secondary. High costs are presented as an excuse for not changing the situation, for not making polling stations accessible, for not providing tactile voting devices for blind people and for not ensuring the provision of campaign material in accessible formats.

5. In my view, the participation of persons with disabilities in political life deserves a long-term investment and commitment since it can contribute to breaking stereotypes, changing mindsets and combating discrimination. It should be encouraged and supported at every level of political life (local, national, European) and in political parties to ensure the inclusiveness of our political systems. This report intends to shed light on this democratic deficit and on measures that can be taken to tackle it.

### **2. Aims of the report and methodology**

6. The motion at the origin of this report stresses that persons with disabilities should no longer be considered as second-class citizens and their right to participate in political and public life should be better protected. It calls on the Assembly to examine how Council of Europe member States guarantee the political rights of persons with disabilities and recommend ways to better comply with international standards.

7. In order to collect information about the situation in Council of Europe member States, I sent a questionnaire to national parliaments of Council of Europe member and observer States via the European Centre for Parliamentary Research and Documentation (ECPRD) with questions on the number of members of parliament with disabilities, existing legislation and best practices to promote the political participation of persons with disabilities. I received a total of 42 replies to the questionnaire and would like to express my gratitude to the parliaments which sent their replies.

8. On 11 October 2016, the Sub-Committee on Disability and Inclusion held a hearing on the right to vote for all: legal capacity and the right to vote, with the participation of Mr Alfredo Ferrante, Chairperson of the Ad Hoc Committee on the Rights of Persons with Disabilities (CAHDPH) and Mr Milan Šveřepa, Director of the NGO Inclusion Europe. The Committee held an exchange of views with Ms Liri Kopaci-Di Michele, Head of the Equality Division at the Directorate General on Democracy of the Council of Europe on 21 June 2016. I also carried out a fact-finding visit to Austria on 24 and 25 October 2016 where I held meetings with current and former members of parliament with disabilities, spokespersons for disabilities of several parliamentary groups, researchers of the European Union Fundamental Rights Agency, the Disability Ombudsman, academics and NGOs. On 31 October 2016, I participated in the conference “Our right to participate – Promoting the participation of persons with disabilities in political and public life” organised by the OSCE Office for Democratic Institutions and Human Rights, the Finnish Ministry of Foreign Affairs and the Finnish Human Rights centre in Helsinki.

9. My intention is not to blame and shame some countries but to show that changes can be made and that we need to do our utmost to respect, protect and promote the political rights of persons with disabilities. This report provides an opportunity to present, discuss and advertise good practices so as to ensure full

<sup>2</sup> The right to political participation of persons with disabilities: human rights indicators, Fundamental Rights Agency of the European Union, 2014.

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participation and representation of persons with disabilities in political life, which is beneficial to all. I will present main challenges to the political participation of persons with disabilities and concrete measures that can be taken so as to facilitate access to vote and participation in elections. I will also insist on the key role of political parties, advocate for inclusive education as a way to promote political participation and present key international standards.

### **3. Challenges to the political participation of persons with disabilities**

10. Persons with disabilities face multiple challenges with regard to accessibility, the diversity of disabilities requiring different measures, the link between legal capacity and the right to vote and the reluctance of political parties which still act as gate keepers to political participation and access to elected positions.

11. Persons with disabilities have a keen interest in politics and becoming active players on the political stage but still cannot participate on an equal basis with others. As highlighted by Mr Alfredo Ferrante, respecting diversity of society cannot be achieved without political participation of persons with disabilities.

12. Facilitating the political participation of persons with disabilities on an equal basis with others means implementing a non-discrimination policy, as recommended by Article 29 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). It is not a matter of creating new rights but of ensuring their respect and enjoyment by all.

#### *3.1. Accessibility*

13. We cannot talk about participation and inclusion of persons with disabilities in political life if we do not pay attention to accessibility. Article 9<sup>3</sup> of the United Nations CRPD is dedicated to accessibility, highlighting the need to ensure accessibility of public buildings, information and communications. Accessibility of polling stations and administrative buildings where to register for voting is not yet guaranteed.

14. I am convinced that realising full accessibility requires not only financial investments, which are not necessarily very high, but also a strong political commitment, and can result in increasing participation and a feeling of inclusion in society. According to Ms Martha Stickings, researcher at the EU Agency for Fundamental Rights, persons with intellectual and psycho-social disabilities face specific barriers to political participation, which may be different to those experienced by persons with physical disabilities. Accessibility should therefore not only be understood under its physical dimension. We need a holistic approach on accessibility to make sure that it encompasses all dimensions and all kinds of disabilities.

#### *3.2. Diversity*

15. The diversity of disabilities calls for a diversity of measures. Persons with physical, sensory, mental and intellectual impairments have different needs, which need to be taken into account. We should ensure accessibility for persons with a wide range of disabilities.

16. The participation of persons with intellectual and psycho-social disabilities in the electoral process is known to be very low compared to persons with other forms of disabilities. Specific actions need to be taken so as to encourage and facilitate further participation of persons with all kinds of disabilities.

17. I would also like to mention that active political participation can be even more challenging for women with disabilities, who might face multiple discrimination and stereotyping when standing for election.

#### *3.3. Legal capacity and the right to vote*

18. In most Council of Europe member States, the right to vote is linked to legal capacity<sup>4</sup> and a person subject to guardianship cannot vote or stand for elections. This deprives hundreds of thousands of citizens<sup>5</sup>

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<sup>3</sup> Article 9 – Accessibility

“1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas (...).”

<sup>4</sup> The European Union Fundamental Rights Agency highlights there is no internationally accepted definition of legal capacity. It proposes defining it as follows: legal capacity should be understood as “the law’s recognition of the decisions that a person takes: it makes a person a subject of law, and a bearer of legal rights and obligations. Without such

from exercising their political rights, in contradiction with the requirements of the United Nations Convention for the Rights of Persons with Disabilities, which almost all member States have ratified.

19. According to Mr Milan Šveřepa, the link between legal capacity and the right to vote is the biggest obstacle to political participation of persons with disabilities. As underlined by the United Nations Committee for the Rights of Persons with Disabilities in its General Comment n.1 on Equal recognition before the law, which stresses that there should be no link between legal capacity and the right to vote, “persons with cognitive or psycho-social disabilities have been, and still are, disproportionately affected by substitute decision-making regimes and denial of legal capacity.”<sup>6</sup> Participation of persons with psycho-social disabilities is too often still considered a taboo. This represents a legal barrier to political participation.

20. The German Federal Ministry of Labour and Social Affairs initiated a study on the link between legal guardianship in all matters and the right to vote. According to this survey, 81.220 persons with legal guardianship in all matters in Germany are excluded from the right to vote and the study pointed out significant differences between federal states. In conclusion, the study made several recommendations to the German Bundestag to implement an inclusive law. This year, the federal states North Rhine-Westphalia and Schleswig-Holstein already implemented inclusive laws which allow people under guardianship to vote on the local and state level. The newly elected federal state government of Berlin will also prepare an inclusive election law.

21. Depriving a person of his or her legal capacity often also means depriving him or her of the right of being a citizen, of deciding and participating. We cannot advocate for the full inclusion and participation of persons with disabilities in society if we do not guarantee that they will be allowed by law to participate in public and political life.

22. In Austria, the right to vote has not been linked to legal capacity for more than 30 years. It is considered a good example in this regard. I was informed that there had been no specific difficulties with regard to the implementation of this policy. Mr Erwin Buchinger, Disability Ombudsman, confirmed that the Austrian population was not putting this disconnection into question. Belgium introduced a legislative change in 2014 with the introduction of presumption of capacity. A person with disabilities will have full political rights unless declared incapable of exercising the right to vote by a justice of peace.

23. In Finland and in the United Kingdom, the right to vote is not linked to legal capacity, which is not the case of the right to be elected. In Norway, a person under guardianship has the right to vote. I received the information that all persons with disabilities, including psycho-social disabilities, have the right to vote and be elected in Sweden and Canada. I regret there are still too few examples of States which chose to delink the right to vote from legal capacity and full guardianship.

24. According to the NGO Inclusion Europe, disability should not be a reason for restrictions to legal capacity. In my opinion, we should advocate for supported decision-making and call to put an end to restrictive legal capacity. Supported decision-making and the systematic provision of information in an accessible format can help empowering persons with disabilities as citizens.

25. The question of legal capacity is also linked to the possibility of making a complaint. It should be possible for a person deprived of legal capacity to bring a complaint independently of the guardian. I welcome the fact that several Council of Europe member States have set up complaints mechanisms with regard to the participation in elections. As an example, violations of or limitations on the right to vote of persons with disabilities can be reported to the Commissioner for Persons with Disabilities in the Slovak Republic.

#### 3.4. *Political parties as gate keepers*

26. In addition to the question of legal capacity creating a legal barrier to participation, political parties are still today the main gate keepers to active political participation of persons with disabilities. They decide who goes on electoral lists and whether to present candidates for eligible positions. They can also promote a member's political career and ensure that their meetings and conventions are accessible. Political parties

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recognition, an individual's decisions have no legal effect or validity; they cannot make binding decisions”, Legal capacity of persons with intellectual disabilities and persons with mental health problems, EU Fundamental Rights Agency, 2013.

<sup>5</sup> Who gets to decide?: Right to legal capacity for persons with intellectual and psychosocial disabilities, Position Paper from the Council of Europe Commissioner for Human Rights, 16 February 2012.

<sup>6</sup> General Comment n.1 on Equal recognition before the law (11 April 2014), CRPD/C/GC/1.

can contribute to tackling the lack of rights awareness and encourage all persons to join their structures by providing accessible information material.

27. However, too often, political parties do not guarantee nor provide accessibility. They show some reluctance in putting forward candidates with disabilities for elections or decide to have them on ineligible positions on electoral lists. Strong negative stereotypes against persons with disabilities persist. "One of the greatest challenges to political participation of persons with disabilities is the low level of expectation of others in society, too many still think that persons with disabilities have nothing to offer and that persons with psycho-social disabilities cannot express their opinion", stressed Ms Judith E. Heumann, Special Adviser for International Disability Rights for the U.S. Department of State.<sup>7</sup> Ms Catalina Devandas, United Nations Special Rapporteur on the Rights of Persons with Disabilities, regretted there was a paternalistic attitude towards persons with disabilities whose views are persistently disregarded.<sup>8</sup>

#### **4. Measures facilitating access to vote and participation in elections**

##### *4.1. Accessibility of polling stations*

28. This report provides the opportunity to present concrete measures which can facilitate participation. Ensuring the accessibility of polling stations is a preliminary condition for effective political participation of persons with disabilities. National legislation foresees specific provisions for the accessibility of polling stations in several member States (Austria, Belgium and France).

29. In Norway, locations of polling stations are made in accordance with accessibility requirements and in Sweden, inaccessible premises can no longer be used for polling stations.<sup>9</sup> The Electoral Act of the Netherlands states that no fewer than 25% of polling stations must be in accessible buildings. During my fact finding visit to Austria, I discovered that there is a still gap with regard to accessibility between rural and urban areas. Where direct accessibility of all polling stations cannot be guaranteed, I would recommend providing a list of accessible polling stations to voters published ahead of the elections.

30. In addition, legislation can include requirements with regard to accessibility within a polling station. The French Electoral Code specifies that each polling station should have at least one voting booth that is accessible to wheelchairs. In addition, the chairperson of the polling station can also move the ballot box so as to make it reachable. In Denmark, Greece, the Slovak Republic and Slovenia, it is possible to cast the vote immediately outside the polling station if it is not accessible. This practice however does not offer the possibility to vote on an equal basis with others. The provision of tactile voting devices for blind people should be foreseen in polling stations.

31. Transportation services to the polling station can also be provided so as to encourage participation. In Italy, municipalities have to organise public transport services for voters with limited mobility. I am of the opinion that parking spaces should also be available very close to the entrance of polling stations.

32. The opening of polling stations in long-term care institutions for persons with disabilities is another way of increasing access to vote. The EU Agency for Fundamental Rights has found that this is the case already in Austria, Bulgaria, Finland, France, Germany and Poland.<sup>10</sup> I have also received information that it was possible in Ireland and Norway.<sup>11</sup> This kind of initiative should be further encouraged.

33. I would also like to welcome the fact that since 1 January 2015, "inadequate accessibility" is included in the Swedish Discrimination Act as a new form of discrimination. It is defined as a failure to take measures to ensure accessibility to enable a person with disabilities to be in a situation comparable to the one of a person without disabilities.<sup>12</sup>

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<sup>7</sup> OSCE/ODIHR Expert Seminar « Our right to participate – promoting the participation of persons with disabilities in political and public life », Helsinki, 31 October 2016.

<sup>8</sup> *Idem.*

<sup>9</sup> Elections Act, Sweden, 2005.

<sup>10</sup> The right to political participation of persons with disabilities: human rights indicators, Fundamental Rights Agency of the European Union, 2014.

<sup>11</sup> Replies to the questionnaire sent to national parliaments via the European Centre for Parliamentary Research and Documentation. A compilation of the replies received was presented to the Committee during the June part-session of the Assembly 2016 in Strasbourg.

<sup>12</sup> In its thematic study on participation in political and public life by persons with disabilities published in 2011 (A/HRC/19/36, 21 December 2011), the Office of the United Nations High Commissioner for Human Rights highlighted that "the failure to guarantee accessibility by means of reasonable accommodation and universal design, as defined in Article 2 of the Convention, would infringe the right to political participation of persons with disabilities and the principle of

34. In addition to the accessibility of polling stations, the accessibility of public buildings where voters register and of parliaments should be evaluated. Often, the hemicycles in national parliaments are only made accessible when a member of Parliament with a disability is elected, allowing him or her to participate in the debates. In Austria, the parliament allocates grants to parliamentarians with disabilities according to their needs for assistance for their parliamentary activities. The accessibility of parliaments should also be improved for visitor groups so that persons with disabilities can fully participate. Several member States have set ambitious deadlines for ensuring full accessibility of all public buildings but this objective is still far from being achieved.

#### 4.2. *Electoral campaigns and accessibility of information*

35. The accessibility of information is a central element for the political participation of persons with disabilities. Election manifestos, television broadcasts, websites and leaflets are all communication tools used during electoral campaigns, which are not yet systematically made accessible to all, hindering participation. In my view, electoral material should be published in easy to read and to understand versions, in large print and in braille and made available in audio and electronic format on websites. In addition, campaign material on video should have subtitles and provide sign language interpretation so as to reach the greatest number. I can only agree with the EU Agency for Fundamental Rights Agency, which recommends that States allocate funding for the provision of accessible information throughout electoral processes.<sup>13</sup>

36. The NGO Inclusion Europe highlights that accessible information should be provided about all aspects of the electoral process, including on ways to register to vote, existing political parties and the functioning of the political system, as well as a presentation of the different forms of elections.<sup>14</sup> Parliament plays a crucial role in providing relevant information and should publish information in accessible formats on its webpages as well as in traditional media.

37. I will mention a few initiatives to illustrate what can be done to make electoral campaigns more accessible. In Latvia, the Central Election Commission provides information on the elections in easy to read language. In Sweden, the Election Authority has videos on the election system and voting procedures with sign language interpretation on its website. In Norway, information on elections is on a website offering easy to read versions and offering the option to have the texts read aloud. Videos used for elections have subtitles and voice narration. In Switzerland, information videos on voting procedures are available in sign language online. The online platform "Elections fédérales 2015 pour tous" provided practical information on the elections in easy to understand language and in sign language. Similarly, the initiative "Accessible election" was launched by the Portuguese National Election Commission and the National Institute for Rehabilitation to promote the right to vote of persons with disabilities. General information on the election was provided on easy to read flyers and videos with subtitles and sign language interpretation. In Austria, the National Action Plan for Persons with Disabilities (2012-2020) states that information for elections and elections themselves should be made accessible. This means that the voting procedure should be made accessible, easy to understand and easy to use. In the United Kingdom, a specific fund was set up so as to provide financial support for persons with disabilities standing for election, to cover extra costs they might incur during campaigns.

38. The commitment of the media is essential since they are the main conveyors of electoral campaigns and can be a key advocacy partner for the political rights of persons with disabilities. Too often, the situation only changes when a member of parliament with disabilities is elected. In Austria, Ms Helene Jarmer, deaf member of Parliament, advocated for the provision of sign language interpretation of parliamentary debates, now broadcasted on national television (ORF). In Serbia, the Electoral Commission requires TV programmes covering election campaigns to have interpretation in sign language. The French, Hellenic and the Hungarian parliaments, among others, broadcast their sittings in sign language.

#### 4.3. *Assistance to voting and training of polling stations officers*

39. Assistance in voting is provided in many Council of Europe member States. In Austria, persons with physical or psycho-social disabilities may be assisted by a person of their choice to cast their vote. In

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equality and non-discrimination".

<sup>13</sup> The right to political participation of persons with disabilities, Fundamental Rights Agency of the European Union, 2014.

<sup>14</sup> Participation in political and public life: the basis for people with intellectual disabilities to live as equal citizens, Inclusion Europe, position paper, 2011.

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Belgium, voters with disabilities can be accompanied by a person of their choice, with the authorisation of the chairperson of the polling station. In Norway, the Election Act states that voters can ask the polling committee to provide assistance in the process of voting. In France, where assistance is needed to cast a vote, the voter can ask for the help of another voter of his/her choice.

40. In Finland, each polling station has an election assistant who can assist a voter upon request. In Germany, assistance by another person is foreseen for someone who cannot mark the ballot paper or cast it in the ballot box while in the Netherlands, persons with a physical disability can get assistance to vote from a person they chose or someone at the polling station.

41. A person with psycho-social disabilities might feel very intimidated by a polling station and could need to be accompanied. However, the provision of assistance should be ensured in a way that does not affect the decision process. The expression of free choice should be supported, not influenced and secrecy of the vote should be protected as much as possible. For this reason, the provision of training for polling station officers by organisations representing persons with disabilities and disabled persons organisations is an essential element of a package of measures to facilitate political participation. Such training helps make them more aware on the possible needs on election day and enables them to better respond to these needs.

42. In Belgium and in Ireland, they receive guidelines on accessible voting, providing practical assistance and interaction with voters with disabilities so as to ensure a supportive environment. I believe that training on disability and non-discrimination should be generalised and given to all staff working in a polling station and in offices in charge of voters' registration. Guidelines on how to assist voters with disabilities should be prepared in cooperation with organisations representing persons with disabilities and disabled persons organisations and widely disseminated. This aspect should also be taken into consideration by election observation missions.

#### 4.4. *Remote voting*

43. While the priority should be to ensure the accessibility of polling stations, remote voting is another practice which can increase participation. It can take the form of postal voting, voting at home or electronic voting. In Estonia, remote electronic voting has been available since 2005 for local elections and 2007 for national elections. In Bosnia and Herzegovina and Sweden, teams of at least two election officers can be set up so as to visit in their home voters who cannot go to the polling station and allow them to cast their vote in a mobile ballot box. In Denmark, Finland, Italy, Lithuania and Serbia, among others, voters can also vote in advance from their home. Voting by proxy is another form of alternative voting, possible in France and the United Kingdom. Many voters choose to vote by post or electronically in Switzerland.

44. It is important to ensure some flexibility so as to accommodate voters, but going to a polling station and taking part in a vote with other voters and on the same day as them is an important aspect of political participation and feeling fully included in society.<sup>15</sup> Persons with disabilities want to vote with other voters in their community, as highlighted by Ms Judith E. Heumann.<sup>16</sup>

#### 4.5. *Decisive role of political parties*

45. The representation of persons with disabilities at the top of political parties and the number of elected persons with disabilities in national parliaments is still relatively low. Only a few parliaments provided information on the number of elected members with disabilities in their replies to the questionnaire, which shows a need for systematic data collection on this issue as well as on participation at large.

46. Political parties have an essential role to play in increasing the political participation of persons with disabilities. Via their manifesto or specific internal charters for equality and diversity, they can take positive measures so as to facilitate participation. Unfortunately, actions by political parties still remain quite limited in this field. The committee of persons with disabilities called "Selbst Aktiv" in the Social Democratic Party (SPD) of Germany can be seen as an example of self-empowerment and promotion of political inclusion inside of a party. As an officially recognised committee by the party board, "Selbst Aktiv" has the same statutory rights as the other committees of the party.

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<sup>15</sup> Submission by Human Rights Watch in view of the preparation of a thematic study to the Office of the United Nations High Commissioner for Human Rights, 17 October 2011.

<sup>16</sup> OSCE/ODIHR Expert Seminar « Our right to participate – promoting the participation of persons with disabilities in political and public life », Helsinki, 31 October 2016.

47. According to a study by the EU Agency for Fundamental Rights Agency, political party manifestos are produced in an accessible format in 14 EU member States.<sup>17</sup> In France and in Portugal, the video spots of political parties for the elections are subtitled and provide sign language interpretation.

48. Ms Helga Stevens, deaf member of the European Parliament, regretted that political parties and politicians in general tend to ignore persons with disabilities.<sup>18</sup> Efforts should be stepped up so as to address the lack of awareness within political parties of the need to facilitate the political participation of persons with disabilities. They should further encourage persons with disabilities to become party members and play an active role. As an example, political parties should ensure that their events and party conventions are accessible to all. In Norway, the Anti-Discrimination and Accessibility Act requires political parties to ensure accessibility of their offices. Political parties could appoint advisors on the participation of persons with disabilities and training for staff of political parties on inclusion and non-discrimination should also be envisaged. Political groups could appoint disability spokespersons in national parliaments.

49. In the United Kingdom, the 2010 Equality Act requires political parties to make reasonable adjustments for persons with disabilities. I received information about an interesting initiative, the project “Every vote counts” of the organisation United Response, working in England and Wales, that produced guidance on accessibility and encouraged politicians to make information easy to read and accessible. United Response published an Easy News Party Manifesto Special, which presented in an easy to understand language the highlights of the manifestos of the political parties in the run up to the 2015 elections.

50. I welcome the declaration made by several leaders of political groups of the European Parliament<sup>19</sup> in June 2013, in a meeting with the European Disability Forum. The political groups pledged to “make every effort to ensure the accessibility of their documents and information, with a particular emphasis on their website”.<sup>20</sup> They called for making the elections to the European Parliament more accessible.

51. By demonstrating their commitment to the participation of persons with disabilities in publishing information in accessible formats and involving them in the activities of the party, political parties can contribute to raising awareness on the importance of inclusion and participation of all in political life without discrimination. They can also contribute to deconstructing the common belief that persons with disabilities would only be interested in working on disability issues and promote role models. Political parties can advocate and act for the full inclusion of persons with disabilities in political life and increase their visibility on the political stage.

52. During my fact finding visit to Austria, I found out that the Austrian green Party provides a significant part of its communication in easy to read language. I would encourage all political parties to maximise the use of their websites, as recommended by Mr Erwin Buchinger, Austrian Disability Ombudsman, since they can provide excellent platforms to present programmes in easy to read and easy to understand versions.

53. The actions taken by political parties to reach out to persons with disabilities and encourage their participation within their structures are monitored by organisations representing persons with disabilities. In Berlin, the NGO Blue Camel monitors the commitments and actions of political parties with regard to persons with disabilities and organises an all-party discussion on disability issues with support of the election state commissioner. With regard to election observation, I welcome the fact that election observation missions of the Parliamentary Assembly report back on the participation of persons with disabilities. I look forward to the publication by OSCE/ODIHR of a specific handbook on guidance for election observers on the participation of persons with disabilities in 2017, which shows there is an increasing interest from the international community for this issue.

## **5. Political participation and inclusive education**

54. The knowledge and exercise of political rights is closely connected to education. Throughout my research and meetings, I was told that there was a lack of awareness on the political rights of persons with disabilities and that more needed to be done in the field of education so as to tackle this issue.

<sup>17</sup> The right to political participation of persons with disabilities: human rights indicators, Fundamental Rights Agency of the European Union, April 2014.

<sup>18</sup> OSCE/ODIHR Expert Seminar « Our right to participate – promoting the participation of persons with disabilities in political and public life”, Helsinki, 31 October 2016.

<sup>19</sup> European People’s Party, Socialists and Democrats, Alliance of the Liberals and Democrats for Europe, Greens/European Free Alliance and the Confederation of the European United Left/Nordic Green Left

<sup>20</sup> The right to political participation of persons with disabilities: human rights indicators, Fundamental Rights Agency of the European Union, 2014.

55. In its General Comment n. 4 on the right to inclusive education, the United Nations Committee on the Rights of Persons with Disabilities stresses that “Full participation in political and public life is enhanced through the realisation of the right to inclusive education. Curricula for all students must include the topic of citizenship and the skills of self-advocacy and self-representation as fundamental basis for participation in political and societal processes”.<sup>21</sup>

56. Children and teenagers receive at school main elements for their civic education, preparing them as future voters. Inclusive education means providing access to the same civic education to children with disabilities, who hold the same rights as future voters. Parliaments can play an important role in the field of political education. They can provide information about the decision-making-process in accessible formats on their websites.

57. I welcome political education programmes such as “My Opinion, My Vote (MOTE)” which aims to empower persons with learning disabilities through active citizenship and participation in political elections in several European Union member States.<sup>22</sup> Students are supported to reflect on political processes and issues, and their rights as citizens. Similar targeted political education programmes should be encouraged and funded in Council of Europe member States, providing information on voting procedures in easy to understand format.

58. I would also like to mention that inclusive education can help raising awareness and deconstructing stereotypes from the youngest age, which can have a positive effect on the participation of persons with disabilities and the way they are considered as political candidates. Persons with disabilities have a keen interest for political life debates and information in general, which is translated by participation when arrangements are made so as to facilitate access and provide information in accessible formats.

59. Last but not least, family members can play a crucial role with regard to the political participation of persons with disabilities, ensuring an environment conducive to political discussion and encouraging participation.

## **6. Key international standards for the protection and promotion of political rights of persons with disabilities**

60. Political rights are guaranteed to every citizen by several key international instruments. In addition to the provisions of the European Convention on Human Rights,<sup>23</sup> the Charter of Fundamental Rights of the European Union<sup>24</sup> and the Universal Declaration of Human Rights,<sup>25</sup> the International Covenant on Civil and Political Rights aims to protect the right of every citizen to take part in their conduct of public affairs, the right to vote and to be elected (article 25). In its General Comment n. 25, the Human Rights Committee of the United Nations stated that restricting the right to vote on the ground of physical disability was unreasonable and stressed that States should take effective measures to ensure that all persons entitled to vote are able to exercise that right.<sup>26</sup>

61. Accompanying measures need to be taken so as to ensure three main goals: the enjoyment of the right to vote, be elected and participate in political life by all. The United Nations Convention on the Rights of Persons with Disabilities (CRPD) therefore goes further by presenting such measures.

62. Article 12 of the CRPD reaffirms the right to recognition everywhere as persons before the law and the fact that persons with disabilities should enjoy legal capacity on an equal basis with others in all aspects of life. It also foresees the provision of adequate support for the exercise of legal capacity, so as to ensure that the preferences, will and rights of the persons are respected.

63. Article 29 of the CPRD specifically requires States Parties to “ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be

<sup>21</sup> General comment No. 4 (2016) Article 24: Right to inclusive education.

<sup>22</sup> <https://downsyndrome.ie/campaigns-and-projects/my-opinion-my-vote/>

<sup>23</sup> European Convention on Human Rights, Article 3 of the First Protocol: Right to free elections.

<sup>24</sup> The Charter reaffirms the right of every EU citizen to vote and stand as a candidate for elections to the European Parliament and at the local level.

<sup>25</sup> The Declaration stresses the principle of universal and equal suffrage and secret vote or equivalent free voting procedures (article 21).

<sup>26</sup> General Comment adopted by the Human Rights Committee under Article 40, paragraph 4, of the International Covenant on civil and political rights, CCPR/C/21/Rev.1/Add.7, 27 August 1996.

elected". States Parties are required to ensure that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use. They should as well protect the right to secret vote and the right to stand for elections and hold office. It also mentions assistance for persons with disabilities in voting by a person of their own choice so as to ensure respect of their free will. This provision is very comprehensive with regard to the participation in political life but does not yet apply to all Council of Europe member States since 44 Council of Europe member States have ratified the CRPD to date.<sup>27</sup>

64. As explained by Ms Quintanilla Barba in her report on Equality and inclusion for people with disabilities, "the convention does not create new rights or rights specific to people with disabilities but adapts fundamental rights to the situation of people who have disabilities in order to ensure that they have full enjoyment thereof".<sup>28</sup>

65. The new Council of Europe Strategy on the Rights of Persons with Disabilities 2017-2023 was adopted on 30 November 2016. It aims at achieving equality, dignity and equal opportunities for persons with disabilities and contains five priority areas: equality and non-discrimination, awareness-raising, accessibility, recognition before the law and freedom from exploitation, violence and abuse. Participation is identified as a cross-cutting issue. It was prepared upon the achievements and evaluation of the Disability Action Plan 2006-2015.<sup>29</sup> The Strategy is not a binding legal document but a flexible policy instrument and framework to be adapted by each member State. It provides a roadmap for innovative disability legislation, policy and practice, including in the field of political participation. The Strategy stresses the need for accessible political campaigns to promote full participation in public and political life. It highlights that "full and effective participation of persons with disabilities in all areas of life and society as a whole is crucial for the enjoyment of all human rights". The Strategy will be officially launched in Nicosia in March 2017. Member States should allocate sufficient resources for its implementation.

66. The European Commission for Democracy through Law (Venice Commission) also stressed that persons with disabilities should "be able to exercise their right to vote and participate in political and public life as elected representatives on an equal basis with other citizens"<sup>30</sup> and presented concrete measures. The Venice Commission explained that the principle of equality could be put in practice by the means of reasonable accommodation, meaning the adaptation and accessibility of existing procedures and material. It also mentioned the provision of assistance in voting, the respect of the principle of individual voting and the protection of the vote by secret ballot, allowing for the use of assistance technologies or assistance in voting by a person freely chosen. It presented the principle of "equality of opportunity for parties and candidates" and mentioned specifically equality for persons with disabilities standing for elections. It also added the monitoring of the participation of persons with disabilities to elections in its observation guidelines.

67. The Committee of Ministers of the Council of Europe adopted a recommendation on the participation of persons with disabilities in political and public life (CM/Rec (2011)14). It calls on member States to "ensure that their legislation overall does not discriminate against persons with disabilities in political and public life". It states as well that "all persons with disabilities, whether they have physical, sensory, or intellectual impairments, mental health problems or chronic illnesses, have the right to vote on the same basis as other citizens, and should not be deprived of this right by any law limiting their legal capacity, by any judicial or other decision or by any other measure based on their disability, cognitive functioning or perceived capacity".

68. The international legal framework for the protection and promotion of the political rights of persons with disabilities is rather comprehensive and gives overall clear guidance with regard to measures to be taken to ensure the enjoyment of political rights. Nevertheless, it is not systematically transposed in national legislation and applied. Measures need to be taken at the national level so as to tackle the multiple challenges faced by persons with disabilities when trying to exercise their political rights.

<sup>27</sup> Ireland, Liechtenstein and Monaco did not yet ratify the Convention.

<sup>28</sup> Assembly resolution 2039 (2014) and recommendation 2064 (2014) on Equality and inclusion for people with disabilities.

<sup>29</sup> The Abridged Evaluation Report of the 2006-2015 Action Plan stresses that challenges persist with regard to the implementation gap between standards and the reality in member States.

<sup>30</sup> Revised interpretative declaration to the code of good practice in electoral matters on the participation of people with disabilities in elections adopted by the Council for Democratic Elections at its 39th meeting (Venice, 15 December 2011) and by the Venice Commission at its 89th plenary session (Venice, 16-17 December 2011), CDL-AD(2011)045-e.

## 7. Conclusions

69. The right to vote, be elected and, more generally, participate in political life of persons with disabilities is an important issue not only because it concerns the rights of persons with disabilities. It is an issue relevant for democracy and equality which shows how inclusive or exclusive our democracies can be.

70. Ensuring the political participation of persons with disabilities is not out of reach. Voting procedures can be adapted, information can be made accessible and awareness-raising campaigns can be launched. Making political life more inclusive is a question of political will. Concrete actions can be taken and investments can be made so as to achieve tangible results. It is our responsibility as politicians to advocate for an inclusive political life.

71. It is possible to change mindsets with regard to the capacity of persons with disabilities to participate in elections and run as candidates with awareness-raising campaigns, which could be organised together with organisations representing persons with disabilities and disabled persons organisations.

72. Delinking the right to vote from legal capacity or full guardianship is a central element of the political participation of persons with disabilities. We should no longer accept this deprivation of the right to vote today in Europe and therefore repeal all laws and regulations that deprive persons with disabilities of the right to vote. In addition, the specific situation of persons with disabilities living in long-term care institutions should not be forgotten and their rights should be protected. Persons with disabilities are keen to participate in political life. Assistance to voting should be provided when necessary via supported decision-making, in respect of the voter's free will, who would choose the person providing support. At the same time support in decision-making must not be used as justification for limiting other fundamental rights of persons with disabilities, especially the right to vote.

73. Cooperation between parliaments, political parties, organisations representing persons with disabilities and disabled persons organisations should be further encouraged. Changes and preparation of any new draft laws concerning the rights of persons with disabilities need to be made in close consultation with organisations representing persons with disabilities and disabled persons organisations according to the motto "nothing about us without us".

74. Political parties should be more open and demonstrate a concrete commitment to make political life more diverse and representative of the population. To enhance inclusion, they could establish committees representing persons with disabilities. In addition, they should also further promote participation and encourage persons with disabilities to stand for election and offer them, without discrimination, eligible positions on electoral lists. Political parties should be aware that people with disabilities are an important part of the electorate and aim at creating a culture of political participation on equal terms.

75. In my view, we should also call for a holistic approach to accessibility, which encompasses the physical accessibility of public buildings, but also accessibility of information about electoral processes, voting procedures and political programmes in easy to read and understand versions, with sign interpretation upon demand and subtitles for videos. Procedures need to be adapted to persons with intellectual and psycho-social disabilities and requirements for voters' registration should not prevent anyone from participating. Sufficient funding should be allocated to ensure accessibility at large, even in times of austerity.

76. The political rights of persons with disabilities can no longer stay on a wish list. They need to be experienced and practiced. To this end, we need to further promote inclusive education and the provision of civic education in accessible format to all. Inclusive education can contribute to deconstructing stereotypes, combating discrimination and changing the perception of persons with disabilities in society.

77. Finally, in order to start applying our recommendations to our own internal structures, I would like to advocate for resolutions and recommendations on the rights of persons with disabilities adopted by the Parliamentary Assembly of the Council of Europe to be made available in easy to understand versions and in sign language interpretation on its website.