

**Recommendation CM/Rec(2011)14
of the Committee of Ministers to member states
on the participation of persons with disabilities in political and public life**

*(Adopted by the Committee of Ministers on 16 November 2011
at the 1126th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,
Having regard to the Universal Declaration of Human Rights (1948), the United Nations International Covenant on Civil and Political Rights (1966), the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993) and the United Nations Convention on the Rights of Persons with Disabilities (2006), which recognise to all persons the universal right to equality before the law and protection against discrimination;

Having regard to the relevant provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), and particularly of its Protocol (ETS No. 9), Article 3, "Right to free elections";

Bearing in mind the principles embodied in the European Social Charter (revised) (ETS No. 163), namely Article 15 "The right of persons with disabilities to independence, social integration and participation in the life of the community", including paragraph 3 thereof on reasonable accommodation with a view to promoting full social integration and participation of persons with disabilities in the life of the community;

Having regard to the relevant provisions of the United Nations Convention on the Rights of Persons with Disabilities on the participation of persons with disabilities in political and public life, particularly its Article 29 "Participation in political and public life", which highlights the obligation to secure for persons with disabilities the enjoyment of their political rights on an equal basis with other members of society, and Article 2 "Definitions", which includes the denial of reasonable accommodation in its definition of discrimination on the basis of disability;

Recalling that in the Warsaw Declaration, adopted at their Third Summit (2005), the Heads of State and Government of the Council of Europe affirmed that "effective democracy and good governance at all levels are essential for preventing conflicts, promoting stability, facilitating economic and social progress, and hence for creating sustainable communities where people want to live and work, now and in the future", and that this presupposes the active involvement of citizens and civil society;

Taking into account the *acquis* of the Council of Europe in the field of participatory democracy and social cohesion over the last ten years, including the following:

1. Committee of Ministers' recommendations:
 - Rec(2001)19 on the participation of citizens in local public life;
 - Rec(2003)3 on balanced participation of women and men in political and public decision making;
 - Rec(2004)11 on legal, operational and technical standards for e-voting;
 - Rec(2004)15 on electronic governance ("e-governance");
 - CM/Rec(2009)1 on electronic democracy (e-democracy);
 - CM/Rec(2009)2 on the evaluation, auditing and monitoring of participation and participation policies at local and regional level;
 - CM/Rec(2009)3 on monitoring the protection of human rights and dignity of persons with a mental disorder;
 - CM/Rec(2009)6 on ageing and disability in the 21st century: sustainable frameworks to enable greater quality of life in an inclusive society;
 - CM/Rec(2009)8 on achieving full participation through Universal Design;
2. Parliamentary Assembly texts:
 - Recommendation 1592 (2003) "Towards full social inclusion of people with disabilities";
 - Recommendation 1598 (2003) "Protection of sign languages in the member states of the Council of Europe";
 - Resolution 1459 (2005) and Recommendation 1714 (2005) "Abolition of restrictions on the right to vote";

- Resolution 1642 (2009) and Recommendation 1854 (2009) "Access to rights for people with disabilities and their full and active participation in society";

3. Congress of Local and Regional Authorities of the Council of Europe texts:

- Revised European Charter on the Participation of Young People in Local and Regional Life (2003);

- Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (2009);

Having specific regard to Recommendation Rec(2006)5 of the Committee of Ministers to member states on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015 ("Council of Europe Disability Action Plan"), especially Action Line No. 1 "Participation in political and public life" which states that participation by all citizens "in political and public life and democratic processes is essential for the development and maintenance of democratic societies";

Recalling that the aforementioned Action Line No. 1 stresses the importance of including all citizens in decision making and taking account of the diversity of the members of society in order to "benefit from their varied experience and knowledge" in managing public affairs at all stages in the development of legislation, policies and practices;

Considering that the 15 Action Lines in the Council of Europe Disability Action Plan are complementary and that they all set specific goals in pursuit of the aim of constructing inclusive, participatory societies respecting the human rights of all the members of these societies in their diversity;

Considering that this aim cannot be achieved without involving persons with disabilities, whatever their individual impairment(s) might be; such involvement requires positive action from member states in favour of persons with disabilities in order to provide them with necessary reasonable accommodations and legal guarantees on the exercise of their political rights under conditions of equality and non-discrimination;

Being convinced that, in all the relevant fields of action, at the international, national, regional and local levels, an approach based on human rights, which are universal, indivisible and interdependent, has to be adopted, member states have several means at their disposal for doing so, recognising that there is no one tried-and-true approach to combating discrimination;

Acknowledging that, where the social integration of persons with disabilities is concerned, a conceptual and methodological sea change has taken place in international law since the end of the 20th century, as persons with disabilities are no longer considered as patients or objects of charity but as subjects of rights and full citizens who, when interacting with social and environmental barriers, may be prevented from participating in the life of society;

Acknowledging that it is incumbent on the governments of member states to identify and eliminate any obstacles impeding the participation of persons with disabilities in the life of society and to prevent the creation of any new obstacles, in order to guarantee equal and democratic rights in society for all individuals by recognising that all of society should benefit from diversity and equal participation by all;

Considering that the intergovernmental work on democratic participation of persons with disabilities in public and political life at the national, local and regional levels which has been conducted since the adoption of the Council of Europe Disability Action Plan has highlighted a number of questions which would be worth addressing under a new recommendation to member states referring to Action Line No. 1 "Participation in political and public life" and also to other action lines in the said action plan,

Recommends that the governments of member states:

1. continue their efforts to reach the objectives of Action Line No. 1 "Participation in political and public life" of the Council of Europe Disability Action Plan and to monitor and evaluate the implementation of the provisions of this action line;

2. adopt the appropriate legislative measures in line with the above mentioned Action Line No. 1, facilitate the development of the proper support services providing the needed assistance and conduct other positive actions likely to encourage women and men with disabilities, as well as children and young people with disabilities, to participate in political and public life as citizens holding equal political rights and obligations, with respect for the following principles and measures which are presented in detail in the appendix to this recommendation:

2.1. equal rights and opportunities;

2.2. accessibility:

2.2.1. built environment;

- 2.2.2. goods and services;
 - 2.2.3. information and communication;
 - 2.2.4. voting procedures, ballots and facilities;
 - 2.3. non-discrimination in the exercise of legal capacity;
 - 2.4. assistance in decision making and free choice by persons with disabilities;
 - 2.5. education and training in democratic participation;
 - 2.6. including persons with disabilities in decision-making processes;
3. initiate or continue work to evaluate the democratic participation of persons with disabilities and its impact at national, regional and local levels, so as to consolidate co-operation among decision makers, election management bodies, researchers, academic institutions and NGOs in their respective countries, in order to secure reliable and comparable information and statistics in respect to national legislation, as well as to collect good practices;
 4. reinforce their co-operation within the Council of Europe by exchanging good practices and developing intergovernmental activities and networks with a view to creating the conditions to include all persons with disabilities in political and public life and ensure their equal rights and opportunities;
 5. integrate this recommendation into their national disability strategies, policies and programmes, translate it into their official language(s) and disseminate it as widely as possible;
 6. involve persons with disabilities, including children and young people with disabilities, through their representative organisations, in disseminating and implementing this recommendation.

Appendix to Recommendation CM/Rec(2011)14

The objective of the present appendix is to propose principles and measures to increase the participation of persons with disabilities in political and public life at all levels – local, regional, national and international – in the Council of Europe member states. It is noted that persons with disabilities generally account for a small proportion of those involved in public affairs and occupying representative functions. The aim is to achieve full equality in participation in elections and representation of all members of society in decision-making bodies to ensure that the diversity of views and needs is taken into account in national, regional and local legislation and policy development in member states.

1. Equal rights and opportunities

All persons with disabilities – men and women, including in certain circumstances children – have the right to participate in political and public life as citizens on an equal basis with others. Member states should secure for persons with disabilities equal rights and opportunities to participate in political and public life, and therefore prevent any possible discrimination by providing appropriate information and creating an environment which will enable persons with disabilities to participate fully in political and public life.

Persons with disabilities should be enabled, freely and without discrimination, particularly of a legal, environmental and/or financial nature, to:

- vote and stand for election at all levels;
- have access to communication, information, procedures and facilities related to their political rights;
- have equal access to public duties;
- meet, join or found associations;
- meet, join or found political parties;
- express their opinions;
- be closely consulted and actively included in the development and implementation of legislation and policies, and in other decision-making processes concerning issues that affect them.

In all the measures taken to facilitate the participation of persons with disabilities in political and public life, the authorities and other competent bodies should take into account the fact that persons with disabilities represent various groups in society. They can have a wide variety of impairments, very different personal characteristics and be in varying socio-economic situations.

The general principle of non-discrimination should form the basis of governmental policies geared to ensuring equal rights and opportunities for persons with disabilities through the removal of restrictions on legal capacity, the abolition of voting tests, the introduction of relevant legal provisions, specific forms of assistance, awareness raising and funding.

In the event of a violation of their rights, persons with disabilities shall have equal access to justice and enjoy the same level of legal protection as all other persons, in accordance with the United Nations International Covenant on Civil and Political Rights (1966) and, as appropriate, Article 13 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), as well as foreseen by the Universal Declaration of Human Rights (1948) and the provisions of Action Line No. 12 “Legal protection” of the Council of Europe Disability Action Plan 2006-2015 (Recommendation Rec(2006)5 on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015).

2. Accessibility

Participatory democracy for persons with disabilities involves accessibility of premises, services and goods, procedures, rules, information and communications. Failure to guarantee accessibility by means of Universal Design and reasonable accommodations would infringe the rights and the dignity of persons with disabilities and the principles of non-discrimination and equal opportunities. “Reasonable accommodation” and “Universal Design” should be understood as defined in Article 2 of the UNCRPD.^[1]

Member states should ensure that all aspects of political and public life are accessible to persons with disabilities. To this end, they should pay particular attention to the manner in which all relevant actors, public or private, implement the legal provisions guaranteeing equal access by all members of society to products, assets and services (see Article 4, paragraph 1.e and Article 9 of the UNCRPD).

2.1. Built environment

The built environment is a challenge to persons with disabilities when they wish to participate in public affairs and when they defend their rights, for example in the judicial sphere (see Article 13 of the UNCRPD). Member states should avoid and prevent the creation of barriers in access to the built environment.

Legislative and other appropriate measures should be adopted in order to guarantee the removal, within a reasonable time, of existing physical obstacles hampering access to places where public affairs such as central and local administrative activities and judicial proceedings are conducted. The same recommendation applies to political activities such as campaigns and elections; it is recommended to organise all public meetings and events in accessible premises.

In order to achieve this, the principles of Universal Design should be applied in a co-ordinated, harmonised and intersectoral manner (see Recommendation CM/Rec(2009)8 of the Committee of Ministers to member states on achieving full participation through Universal Design). It should be noted that Universal Design is transgenerational and user-oriented, and fulfils the criteria of convenience and ease of use for all members of society.

2.2. Goods and services

To enable persons with disabilities to participate fully in political and public life, member states should take appropriate measures to guarantee them effective non-discriminatory access to and supply of relevant goods and services, including transportation and other indoor and outdoor facilities, which are open or provided to the general public, both in urban and rural areas.

Measures to be taken by member states or providers of goods and services should not impose a disproportionate burden, or require fundamental alteration of goods and services in question or require the provision of alternatives thereto. Goods and services should be provided by anticipation in a manner that respects the dignity and independence of persons with disabilities.

2.3. Information and communication

Member states should take steps to ensure that information on public affairs and political activities (including electoral programmes) are available in various forms (including sign language, Braille, audio, electronic and easy-to-read and understand versions). It would be useful to facilitate several modes of communication between citizens and their political representatives or other public mandate holders.

Universal Design principles should be used to design, develop, implement and promote new technologies, including assistive technologies and equipment, which could facilitate the participation of persons with disabilities in political and public life. These technologies and equipment should be accessible and affordable to all those who need them. When communicating with a person with disabilities, a provider of goods and services should be required to do so in a manner that takes into account the person's disability.

Member states should require political parties, associations, broadcasting corporations and other bodies in receipt of state subsidies or funding to be accountable for the active measures adopted to ensure that persons with disabilities have access to information on political debates, campaigns and events which fall within their field of action.

2.4. Voting procedures, ballots and facilities

Member states should pay due attention to the importance of accessible rules and procedures before and during elections at all levels, as well as at other occasions when citizens are invited to participate in the conduct of public affairs. Accessible ballot papers and facilities should be available at the time of voting. Information about accessibility of voting procedures, ballots and facilities, through communications in easy-to-read and to understand formats, should be largely disseminated in advance, in order to encourage citizens to participate in political and public life.

Universal Design principles should help to ensure that existing obstacles hampering access to the physical environment, goods and services, information and communications, in particular as regards voting procedures and ballots, are removed and that no new obstacles are created. The objectives and specific actions set out in Action Lines No. 6 "Built environment", No. 7 "Transport", No. 3 "Information and communication" and, as appropriate, the provisions of the relevant articles of the UNCRPD, namely 9 "Accessibility", 21 "Freedom of expression and opinion, and access to information" and 13 "Access to justice" should be used to guide the measures to be taken in pursuing the aims of total accessibility as described above.

3. Non-discrimination in the exercise of legal capacity

Bearing in mind the provisions of Action Line No. 12 "Legal protection" of the Council of Europe Disability Action Plan 2006-2015 and, as appropriate, Article 12 "Equal recognition before the law" of the UNCRPD, member states should ensure that their legislation overall does not discriminate against persons with disabilities in political and public life. They should make support available to persons who may need assistance in exercising their legal capacity in various aspects of life, in particular when exercising their right to vote, which is a universal right, in particular under the terms of Article 29 of the UNCRPD, as in other international legal instruments to which member states are parties. Member states should ensure that their legislation is devoid, at all levels, of provisions depriving persons with disabilities of the right to vote or stand for election.

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. All persons with disabilities are also entitled to stand for office on an equal basis with others and should not be deprived of this right by any law restricting their legal capacity, by any judicial or other decision based on their disability, cognitive functioning or perceived capacity, or by any other means.

Member states should ensure that discrimination based on disability is prohibited in all fields of political and public life, namely wherever it is a question of voting, standing for election, exercising a mandate and/or being active in political parties or non-governmental organisations, or exercising public duties. These discriminatory acts include the failure to comply with the obligation to implement reasonable accommodations (see point 2 above, "Accessibility") for persons with disabilities so that they can fully enjoy their political rights.

4. Assistance in decision making and free choice by persons with disabilities

All citizens should be empowered to fully participate in political and public life. As regards persons with disabilities, the recognition of their capacities, knowledge and expertise in making their own decisions and taking part in political and public life is a precondition for increasing their meaningful participation in the life of society. Persons with disabilities and/or their representative organisations should be involved in the whole policy cycle: programming, planning, implementing, monitoring and evaluating policies that affect persons with disabilities. The right to vote and to stand for elections guarantees in the first place citizens' participation in political and public life. Consequently, member states should ensure that polling stations and ballot papers are fully accessible and that measures are for instance taken to enable persons with disabilities to vote without assistance (by providing facilities in polling stations for instant access to information, for example pocket instruments or other tactile devices to be placed on the ballot papers to help blind or partially-sighted people).

Where persons with disabilities need assistance in order to vote or express their opinion, member states should ensure that they are allowed to be accompanied by a person of their choice, for example in the voting booth when casting their vote. "Assistance" here means helping the person with disabilities to express his or her decision, not taking the decision in his or her place.

Member states should ensure that participation in political and public life is possible for persons with disabilities living in hospitals or any other type of residential establishment. All persons in all living situations should have access to information on political campaigns and events and have practical opportunities for voting. To this end, member states should introduce mechanisms to enable persons with disabilities to vote by other means, where travel to conventional polling stations is a major obstacle to their political participation.

In pursuing these objectives, member states should bear in mind the provisions of Article 29 "Participation in political and public life" and Article 20 "Personal mobility" of the UNCRPD, and Action Line No. 8 "Community living" of the Council of Europe Disability Action Plan.

5. Education and training in democratic participation

As regards participation of persons with disabilities in political and public life, combating stereotypes among all members of society is a task which should be tackled by means of training programmes and awareness-raising campaigns in accordance with the spirit of Article 8 of the UNCRPD and Action Line No. 15 of the Council of Europe Disability Action Plan, both of which are entitled "Awareness-raising".

Every person who deals with members of the public or other third parties on behalf of a provider of information, goods or services in connection with political or public life, whether the person does so as an employee, agent, volunteer or otherwise, should receive training on the provision of information, goods or services to persons with disabilities. Practical training should be in particular provided for all officials responsible for elections and those responsible for operating or supervising polling stations. Training should be provided on an ongoing basis in connection with changes to relevant legislations, policies, practices and procedures, and include the following matters:

- how to interact and communicate with persons with various types of disability;
- how to interact with persons with disabilities who use an assistive device or require the assistance of a guide dog or other service animal or the assistance of a support person;
- how to use equipment or devices available on the premises concerned that may help persons with disabilities;
- what to do if a person with a particular type of disability is having difficulty accessing information, goods or services provided.

Persons with disabilities themselves, children and adults, should, by means of formal education, extracurricular activities, interactive learning programmes and appropriate individual and vocational training courses, gain confidence in themselves in order to carry out their own decisions and fulfil their potential and capacities in public and political life (see points 1 and 4 above). Active measures are required to encourage persons with disabilities to discharge official duties with regard to managing elections and ensure the requisite reasonable accommodation to enable them to do so, and to take active part in political and public life.

In order to encourage all persons with disabilities, from a very early age, to take an interest in and seek information on the political process, member states should adopt measures corresponding to the specific objectives of Action Line No. 4 and Article 24 of the UNCRPD, both of which are entitled "Education" and which advocate inclusive education. One of these measures should consist of ensuring that active citizenship and the political process are subjects dealt with in the educational programmes at all levels.

6. Including persons with disabilities in decision-making processes

Member states should engage in close consultation with and actively involve persons with disabilities and their representative organisations in developing, implementing and monitoring legislation, policies and programmes which affect their participation in political and public life and, more generally, life in society. They should take appropriate capacity-building and financial measures with a view to making sure that organisations of persons with disabilities (DPOs) have the capacity to fully participate and contribute to the conduct of public affairs. Public authorities and DPOs should aim at having a constructive relationship based on mutual trust.

Member states should also ensure that all their participatory processes are fully accessible to persons with disabilities and do not exclude them, in accordance with the spirit of the Council of Europe Disability Action Plan and the UNCRPD, particularly Article 4, paragraph 3, Article 29.b and Article 33 thereof. Appropriate mechanisms should be adopted to ensure meaningful representation of persons with disabilities and/or DPOs in relevant bodies of public authorities and advisory boards.

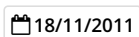
Member states which have ratified the UNCRPD should also engage with DPOs to regularly review the procedures for integrating persons with disabilities and their representative organisations in the mechanism, which States Parties to the convention are required to establish under Article 33 of the UNCRPD, responsible for promoting, protecting and monitoring the implementation of the convention. Where the participation of persons with disabilities and their representative organisations in this mechanism is limited (because, for instance, it does not take proper account of the diversity of persons with disabilities mentioned in point 1 above or owing to physical obstacles or obstacles to information, etc.), arrangements should be made to facilitate their participation. These measures should, as appropriate, include granting financial or other assistance to programmes for reinforcing the capacities of DPOs.

[1] UNCRPD definitions: "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms. "Universal Design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. "Universal Design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Related documents

CM/Del/Dec(2011)1126/6.3

European Co-ordination Forum for the Council of Europe Disability Action Plan 2006-2015 (CAHPAH) - a. Abridged report of the 5th meeting (Strasbourg, 21-23 September 2011) - b. Draft Recommendation CM/Rec(2011)... of the Committee of Ministers to member states on the participation of persons with disabilities in political and public life



English

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1126th meeting of the Ministers' Deputies (CM Room) - Meetin... 16/11/2011

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