



Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities

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Designed by Nona Reuter

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List of Acronyms

AVM	alternative voting mechanism
CRPD	Convention on the Rights of Persons with Disabilities
CSO	civil society organization
DHoM	Deputy Head of Mission
DPO	Disabled persons organizations
EAM	election assessment mission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EMB	election management body
EOM	election observation mission
EU	European Union
FRA	European Union Agency for Fundamental Rights
ICCPR	International Covenant on Civil and Political Rights
IFES	International Foundation for Electoral Systems
LTO	long-term observers
NAM	Needs Assessment Mission
OAS	Organization of American States
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of the High Commissioner for Human Rights (United Nations)
OSCE	Organization for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PS	polling station
SDG	Sustainable Development Goal
STO	short-term observer
UDHR	Universal Declaration of Human Rights
UN	United Nations
CWAG	Web Content Accessibility Guidelines
W3C	World Wide Web Consortium (W3C)

Foreword

The right and the opportunity for all citizens to participate is a central component of OSCE election-related commitments. According to the UN, over a billion people – about 15 per cent of the world’s population – are estimated to be living with a disability. Building upon the 1948 Universal Declaration of Human Rights and 1966 International Covenant for Civil and Political Rights, the 1991 Moscow Document commits OSCE participating States to “ensure protection of the human rights of persons with disabilities”, including political and electoral rights. With explicit obligations provided in the 2006 Convention on the Rights of Persons with Disabilities, attention to the issue has grown in recent years.

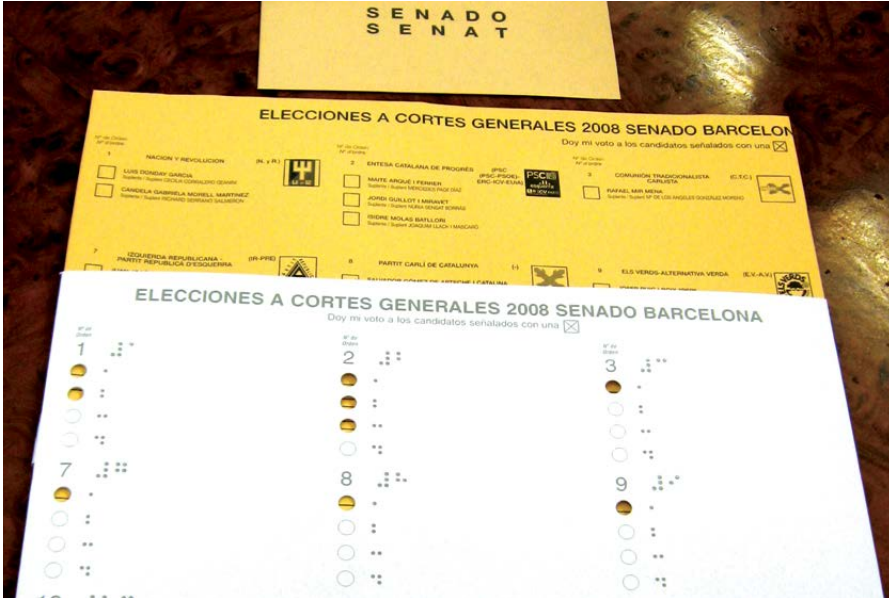
The methodology followed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) is widely recognized for its systematic and comprehensive approach. It has served, and continues to serve, as guidance to other international and citizen observer organizations. As tasked by the OSCE participating States, ODIHR continuously strives to further improve its methodology by developing handbooks on specialized aspects of elections.

While the participation of persons with disabilities has already long been covered by ODIHR’s general election observation methodology, this handbook aims to establish a more systematic and comprehensive approach to this important topic. It provides information and a framework to assist ODIHR observers in assessing the participation of persons with disabilities, as part of the overall observation of an electoral process. Election observers have an important role to play in monitoring legal, structural and practical barriers that can lead to exclusion, and the extent to which persons with disabilities are participating in elections as voters, candidates, election officials and in other roles.

We hope this handbook will also be a useful tool to a wider audience interested in the topic, including electoral management bodies, political parties, civil society organizations and international organizations.

We wish to thank the many experts and organizations that have provided valuable input and feedback during the development of this handbook, particularly disabled persons organizations and our counterparts who have endorsed the Declaration of Principles for International Election Observation. This handbook would not have been possible without their support and co-operation.

Ingibjörg Sólrún Gísladóttir
ODIHR Director



Introduction

A. About this Handbook

While the participation of persons with disabilities has already long been included in the general ODIHR election observation methodology, this handbook aims to establish a more systematic and comprehensive approach to this important topic. It provides information and a framework to assist ODIHR observers in assessing the participation of persons with disabilities, as part of the overall observation of an electoral process. The handbook may also be useful to a wider audience interested in the topic, including electoral management bodies, political parties, civil society organizations (CSOs) and international organizations. This resource has been developed on the basis of extra-budgetary contributions by OSCE participating States, as part of ODIHR's continued efforts to improve its election observation methodology and to further increase the professionalism of those involved in the Office's observation activities.

The handbook applies to all types of ODIHR election observation activities (election observation missions, limited election observation missions, election assessment missions and election expert teams).¹ ODIHR mainstreams the participation of persons with disabilities throughout its election observation activities, and this handbook is intended for use by all

¹ This handbook complements and should be read in conjunction with the ODIHR Election Observation Handbook and other publications issued by ODIHR. All are available at <http://www.osce.org/odihr/elections/119893>.

mission members, including core team analysts, long-term observers (LTOs) and short-term observers (STOs).

B. Disabilities in Context

Challenges to ensuring the effective participation of persons with disabilities are widespread and awareness of these challenges is on the rise. According to reports by the World Health Organization and the World Bank, an estimated one billion people, or about 15 per cent of the world's population, are living with a disability. Similarly, the United Nations (UN) Economic and Social Council report on mainstreaming disability in the development agenda notes that global trends, including aging populations and increases in chronic health conditions, will lead to more people being affected by disabilities.

These challenges are compounded by the complexity and range of disabilities that exist. The UN Convention on the Rights of Persons with Disabilities (CPRD) states that “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory disabilities which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”² Such barriers include physical obstacles, legal limitations, practical arrangements and societal attitudes that *de facto* exclude them or reduce their participation.

UN Enable, the focal point within the UN system on matters relating to disability, states that this definition is not exhaustive, noting “this minimum list of persons who may claim protection under the Convention does not exhaust the categories of the disabilities which fall within it nor intend to undermine or stand in the way of wider definition of disabilities under national law (such as persons with short-term disabilities).”³ The issue of context is also important. UN Enable goes on to state that “a person with disabilities may be regarded as a person with a disability in one society or setting, but not in another, depending on the role that the person is assumed to take in his or her community. The perception and reality of disability also depend on the technologies, assistance and services available, as well as on cultural considerations.”

It must also be recognized that persons with disabilities are not a homogenous group. Persons with different types of disabilities may require different forms of assistance and support to enjoy their rights on an equal basis with others. For example, for persons with physical disabilities, the accessibility of public spaces and buildings is of utmost importance, while for persons with intellectual and sensory disabilities, the ability to receive and submit information in accessible formats is vital. Persons with multiple forms of disability face additional and often unique challenges. Understanding the diversity of the disability community is the first step towards ensuring that accessibility measures designed to promote more inclusive societies correspond to actual needs.

2 Available at <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>.

3 Available at <http://www.un.org/esa/socdev/enable/faqs.htm>.

C. The Importance of Protecting and Promoting the Electoral Rights of Persons with Disabilities

The right and the opportunity for all citizens to participate in elections is a central component of OSCE commitments. However, awareness of shortcomings in the fulfillment of electoral rights of persons with disabilities has increased in recent years, including the ways in which these shortcomings contribute to marginalization and social exclusion. At the same time, the international legal framework has changed fundamentally. In 2008, the CRPD entered into force, and included, for the first time, detailed obligations related to political and electoral rights. Moreover, the adoption of the CRPD marked the shift from a charity/medical to a human rights-based approach to disability, emphasizing the principles of equality and non-discrimination. At the time of publication, the CRPD had been ratified/acceded to by over 170 countries, including 54 of the 57 OSCE participating States. The ratification by these 54 countries further recognizes and builds upon the commitment made by all OSCE participating States at the Moscow Meeting in 1991 to “ensure protection of the human rights of persons with disabilities”.

Yet the available data show that the participation of persons with disabilities in elections as voters, candidates and electoral officials remains low across the OSCE region. Persons with disabilities face a number of barriers to their participation, including legal restrictions, inadequate accessibility to infrastructure and information, a lack of awareness of the specific needs of persons with disabilities, a lack of assistive devices, and negative stereotypes and stigma in society. As a result, persons with disabilities often remain at risk of being marginalized in public life and under-represented in elected positions and decision-making processes. Despite the evolution of international law, there is still a gap between the real situation of persons with disabilities and the implementation of principles enshrined in the CRPD.

Election observers have an important role to play in monitoring the legal, structural and practical barriers that obstruct inclusion, and the extent to which persons with disabilities are actively participating in elections as voters, candidates and election officials, and in other roles. Observers have a responsibility to identify how political agreements and human rights treaties are being fulfilled and where there are shortcomings in compliance, as well as to recommend what key improvements can be made.

D. How to use this Handbook

Chapter 1 of the handbook provides an overview of OSCE commitments and other international standards and obligations, with a particular focus on the UN Convention on the Rights of Persons with Disabilities (CRPD). **Chapter 2** provides an overview of barriers to participation faced by persons with disabilities and potential responses to these challenges.

Practical advice and questions are then developed in **Chapter 3** to highlight key points of enquiry for election observers. The chapter is divided according to the phases of an election cycle, with sections focused on the pre-election period, election day and the post-election period. The section on the pre-election period looks at:

- Election legislation: including the ratification status of CRPD provisions on legal capacity, accessibility requirements, obligations to consult disabled persons' organizations (DPOs), and the collection of disability disaggregated data;
- Election administration: including the training of polling station officials, assistance mechanisms developed to help persons with disabilities to vote and voter education;
- Election campaign: outreach of political parties to persons with disabilities, the accessibility of campaign venues and access to the media on an equal basis.

The election day section focuses on the accessibility of polling stations and ballots for persons with various types of disabilities, assistance from a person of choice and alternative voting mechanisms.

The section on the post-election period covers such issues as the announcement and dissemination of election results in accessible formats, the accessibility of complaints and appeals mechanisms and the role of citizen observation.

Finally, **Chapter 4** touches upon ODIHR's election observation methodology, with a focus on observing and promoting the electoral participation of persons with disabilities throughout an electoral cycle. It covers the pre-electoral needs assessment mission, which determines whether ODIHR will carry out an election observation activity and, if so, of what scope and format; the role of different analysts and observers once deployed; and post-election activities to support countries in following up on ODIHR's election assessments and recommendations.

The annexes contain extracts from the main international and regional instruments related to the rights of persons with disabilities, a compilation of useful resources, definitions of key terms and a list of acronyms.

E. Key Principles for ODIHR Observers

ODIHR pays particular attention to certain key principles, described below and elaborated upon in the following chapters, when assessing the participation of persons with disabilities in elections:

- The full and effective electoral participation of persons with disabilities is a central component of OSCE commitments and international standards, reflecting the right to universal and equal suffrage. **Equality and non-discrimination** are fundamental principles for the electoral and political participation of persons with disabilities.
- **The UN Convention on the Rights of Persons with Disabilities (CRPD) came into force in 2008 and has near universal applicability.** It profoundly shifted the approach to disability from a medical or charity-based model to a human rights-based model. The emphasis is now on the facilitation of rights and support for inclusion and participation.

- Persons with disabilities should not **be considered a homogeneous group**. Persons with various types of disabilities have different needs and may require different forms of assistance and support.
- **DPOs should be closely consulted and actively involved** in the development and implementation of legislation and policies.
- **It is not acceptable to remove and/or limit the right to vote or to stand as a candidate on the basis of** any type of disability, including intellectual or psychosocial disabilities.
- **Supported decision-making** means that a person can receive the necessary assistance to adopt certain decisions in life, including when exercising the right to vote. Such mechanisms should replace the substituted decision-making ones, providing persons with disabilities with the necessary support to exercise their electoral and political rights without undue limitation.
- **Key electoral information should be made available in multiple, accessible formats**, which may include Braille, large print, audio, easy-to-understand versions and sign language. This includes information about how to participate in an election, how to lodge complaints and appeals, results and updates from the election administration.
- **The electoral campaign should be accessible** for persons with all types of disabilities. Efforts should be made to ensure campaign events and electoral materials are available to all. **Public media should ensure equal access** to information and equal opportunities to deliver messages for persons with disabilities.
- **All electoral processes should be made accessible** to persons with disabilities. This requires “**universal design**”, whereby environments and services are proactively made usable for all people, to the greatest extent possible, without the need for adaptation. It also requires that “**reasonable accommodations**” are made for specific needs not covered by universal design, to ensure that persons with disabilities can exercise their rights on an equal basis with others.
- **Persons with disabilities should be able to cast their vote without assistance**, or with assistance by the person of their choice, **in secret and at a regular polling station**. Only if this is not possible should alternative voting methods be considered, such as mobile voting or postal ballots. Alternative methods should not be promoted as a substitute to improving accessibility at polling stations and, if used, adequate safeguards should be put in place.
- **On election day, observers should consider whether information is available in multiple formats, whether polling stations are physically accessible, whether assistive tools are available, and whether a voter can choose who will assist her or him**. Physical access means voters with disabilities can enter the polling station unaided, can manoeuvre easily throughout the station, and can mark and cast a ballot in secret and with dignity. Assistive tools may include tactile ballot guides, Braille ballot guides and magnifying glasses.
- **All ODIHR election observation mission members assess disability inclusion**, including through the analysis of legislation and practice before, during and after election day.

- **ODIHR promotes the effective participation of persons with disabilities through its electoral assessments and recommendations**, as well as with the active involvement of DPOs in its post-electoral activities to support the follow-up of recommendations.



Chapter 1: OSCE Commitments and Other International Obligations and Standards

This chapter looks at the different positions that have been taken by various international bodies over the years in regards to the political inclusion of persons with disabilities, and considers the current framework. It starts with OSCE commitments, then looks at universal UN instruments, and then considers other regional instruments. The CRPD, which has near-universal applicability and is the most elaborate instrument with the most developed standards relevant to the political participation of persons with disabilities, is described in detail in this chapter and referenced throughout the subsequent parts of the handbook.

It is important to note that a number of OSCE documents promote participating States' adherence to universal – as well as some regional – human rights instruments. For example, the 1975 Helsinki Final Act commits states to “act in conformity with UDHR” and to “fulfill their obligations set forth in the international declarations and agreements in the field, including inter alia the International Covenants on Human Rights, by which they may be bound”. The 1983 Madrid Document explicitly called “on those participating States, which have not yet done so, to consider the possibility of acceding to the covenants”. Later OSCE documents

reiterate the importance of acceding to international human rights treaties, related optional protocols and the 1950 European Convention on Human Rights (ECHR).

A. OSCE Commitments

OSCE commitments recognize that “pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms...”.⁴ They emphasize that “democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person”.⁵

The foundation of specific commitments on democratic elections is the 1990 OSCE Copenhagen Document, which commits all participating States to “guarantee universal and equal suffrage to adult citizens” (paragraph 7.3) and to “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;” (paragraph 7.5). The emphasis on all citizens and non-discrimination is significant, covering persons with disabilities. Importantly, it states that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground;” (paragraph 5.9). It further notes that “The participating States will ensure that the exercise of all the human rights and fundamental freedoms set out above will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with international commitments... Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.” (paragraph 24).

A year later, in 1991, the OSCE participating States made explicit commitments regarding disability. In Moscow, the OSCE participating States committed themselves to “ensure protection of the human rights of persons with disabilities” and, importantly, to “take steps to ensure the equal opportunity of such persons to participate fully in the life of their society”. They also committed themselves to “promote the appropriate participation of such persons in decision-making in fields concerning them”, which includes in election-related laws, regulations and policies, as well as to “encourage favourable conditions for the access of persons with disabilities to public buildings and services, housing, transport, and cultural and recreational activities”, which includes access to polling stations, campaign venues and other premises in the course of elections.

OSCE participating States have explicitly committed themselves to follow up on ODIHR’s electoral recommendations. The importance of follow-up was emphasized by the participating States at the 1999 Istanbul Summit. ODIHR makes sure that issues related to the participation of persons with disabilities in elections are included in its assessments of election processes and subsequent recommendations. ODIHR also makes efforts to ensure follow-up activities are sensitive to their participation rights.

4 Copenhagen Document, 1990. Available at <http://www.osce.org/odihr/elections/14304?download=true>.

5 Charter of Paris for a New Europe, 1990. Available at <http://www.osce.org/mc/39516?download=true>.

B. Universal Instruments

The International Covenant on Civil and Political Rights

The 1966 International Covenant on Civil and Political Rights (ICCPR) provides, in article 25, for the right to electoral participation “without unreasonable restrictions”. Article 2 requires states “to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. While disability is not explicitly mentioned, it can be reasonably considered to be covered by “other status”, particularly in light of the later CRPD.

Thirty years later, in 1996, the ICCPR treaty body, the Human Rights Committee, released an authoritative interpretation of article 25, in General Comment 25. This stated that “Assistance provided to the disabled, blind or illiterate should be independent.” It also stated that “It is unreasonable to restrict the right to vote on the ground of physical disability.” However, in regards to mental disability it noted that “...established mental incapacity may be a ground for denying a person the right to vote or to hold office”.⁶ This restriction on the basis of mental disability has since, under the CRPD, been regarded as a form of discrimination.

The Convention on the Rights of Persons with Disabilities

The CRPD is a groundbreaking treaty that reinforces the human rights of persons with disabilities and consequent state responsibilities, including with explicit reference to political participation. The Convention, while not introducing any new rights for persons with disabilities, marked a paradigm shift in the way disability is defined and in its emphasis on equality and the full participation in their societies of persons with disabilities. According to the Convention, the denial of various forms of reasonable accommodations necessary to ensure such participation, including in elections, could constitute a form of discrimination. The main rights related to elections enshrined in the CRPD relate to: the rights of persons with disabilities to participate fully in elections as candidates and voters, without exception; the right to effectively hold office and perform all public functions at all levels of governments; the right to physical access, as well as access to electoral information and processes, including in regards to parties and campaigning; and the rights to receive assistance when voting from a person of choice. The CRPD also requires the collection of disaggregated data, as well as the involvement of persons with disabilities in the formulation of policies and legislation that impact on their participation. In keeping with this principle, the Convention was itself developed with the active participation of the disabilities rights movement.

As of 2017, more than 170 states were party to the treaty, meaning that it enjoys near-universal recognition.⁷ All OSCE participating States have committed to the treaty, with the exception of the Holy See, Liechtenstein and Tajikistan. Five other OSCE participating

6 Paragraphs 20, 10 and 4, ICCPR General Comment 25, Human Rights Committee. Available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.7&Lang=en.

7 For a list of States party to the CRPD, see <http://indicators.ohchr.org>

States (Ireland, Kyrgyzstan, Monaco, the United States and Uzbekistan), have not yet formally confirmed, acceded to, or ratified the treaty, but have made an initial commitment through signature, which commits them to adhere to the overall object and purpose of the Convention. The European Union formally confirmed the CRPD in December 2010, making it the first core international human rights treaty to be ratified by a regional organization.

To monitor the implementation of the Convention, the CRPD has established the Committee on the Rights of Persons with Disabilities (CRPD Committee), which is a body of independent experts from different State Parties.⁸ The Committee issues authoritative interpretations of the treaty through its general comments.⁹ It also makes suggestions and recommendations to State Parties, who are obliged to submit regular reports to the Committee on how treaty rights are being implemented in their country.¹⁰ The Committee's concluding observations to reports from State Parties give further guidance on the scope and application of the treaty. Another main function of the Committee lies in its competence to examine individual complaints with regard to alleged violations of the Convention by State Parties to the Optional Protocol to the Convention.¹¹ Such complaints can only be made once domestic remedies have been exhausted. The case law of supervisory bodies, such as the UN CRPD Committee, thus becomes part of evolving international standards.

Given the significance and comprehensiveness of the CRPD, it is beneficial to highlight some of the key components that are applicable to electoral participation in general, before moving to Article 29, which sets out specific obligations regarding elections.

Treaty Foundations

The CRPD preamble recognizes that “disability is an evolving concept and that disability results from the interaction between persons with disabilities and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others”. Rather than a medical/charity approach to disability, the framework is firmly rooted in human rights and the state obligation to remove barriers and make accommodations to create more equal societies and to avoid discrimination. The focus, therefore, is not on making a person with a disability fit into society, but rather on the need for societies to accommodate individual differences and needs.

Discrimination

Discrimination is comprehensively defined as “any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the

8 <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>.

9 So far, the Committee has issued four general comments, including on equal recognition before the law (Article 12) and accessibility (Article 9). The general comments are available at <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>.

10 States must report initially within two years of accepting the Convention and thereafter every four years.

11 As of April 2017, 91 countries are party to the Optional Protocol to the Convention on the Rights of Persons with Disabilities. Available at https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15-a&chapter=4&clang=_en.

recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation” (article 1 and 2).

States that have ratified or acceded to the treaty are obliged to “take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities” (article 4.1(b)). They are also obliged to “take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise” (article 4.1(e)). Thus, the state should also take measures to ensure that civil society and private entities do not discriminate against persons with disabilities vis-à-vis their rights to political participation.

Disaggregated Data

Data disaggregated by disability are essential to being able to identify levels of participation and barriers to access. Article 31 obliges states to “collect appropriate information, including statistical and research data, ...to formulate and implement policies to give effect to the present Convention”. It goes on to refer to information being “disaggregated, as appropriate” and disseminated. To ensure data are most effective, they may be further disaggregated according to other categories, such as gender, ethnicity, age or social group.

Consultation with Persons with Disabilities

States should actively and meaningfully involve persons with disabilities. Article 4.3 notes that “In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.” In the Committee’s second General Comment, reference is made to meaningful opportunities to contribute to drafting, commenting, submitting proposals and awareness-raising.

Accessibility, Universal Design and Reasonable Accommodation

Accessible environments, infrastructure and media are often recognized as preconditions for the exercise of other rights prescribed by the Convention.¹² Article 9 requires states to “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, ...to information and communications, ...and to other facilities and services open or provided to the public”. States are also required to “Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public.”

In addition, Article 21 requires that states “take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including

¹² Committee on the Rights of Persons with Disabilities, General Comment No. 2 (2014).

the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice”. Earlier in the treaty, “communication” is comprehensively defined as including “languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology”.

Two key concepts established at the start of the treaty are closely linked to the duty to ensure accessible environments: **universal design** and **reasonable accommodation**.¹³ “Universal design” is defined as “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 specialized design”. For example, it would mean that all electoral materials are designed in a way that they are accessible to persons with various types of disabilities. This is a proactive approach to accessibility.

The Committee’s second General Comment elaborates that establishing universal design is a gradual process, with an emphasis on treaty compliance for new products and services. It notes that “All new objects, infrastructure, facilities, goods, products and services have to be designed in a way that makes them fully accessible for persons with disabilities, in accordance with the principles of universal design.” Yet, while universal design can be implemented gradually, states should also establish definite timeframes and allocate adequate resources for the removal of existing barriers. According to the Committee, these barriers “should be removed in a continuous and systematic way, gradually yet steadily”.

The second key concept is “reasonable accommodation”, which is related to individuals who may have needs in a particular setting that go beyond general accessibility standards. This is defined as the “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”. In practical terms, this means that a person with a disability can request additional measures in addition to general accessibility rules.

The provision of sign language interpretation may constitute an accessibility measure or a reasonable accommodation measure, depending on the situation. For example, there might be varying requirements for different political parties. For large political parties, the use of sign language interpretation during their main meetings could be seen as a measure of accessibility. For smaller parties, this might not be the case, due to the financial limitations. At the same time, if a person requiring sign language interpretation is interested in attending a small gathering, providing interpretation would be a reasonable accommodation measure rather than a general accessibility requirement.

States have an obligation to provide for universal design and reasonable accommodation. The Committee’s second General Comment notes that “Since accessibility is a precondition for persons with disabilities to live independently... and to participate fully and equally in

¹³ CRPD article 2.

society, denial of access to the physical environment, transportation, information and communication technologies, and facilities and services open to the public should be viewed in the context of discrimination.”

With regard to elections, the Committee’s second General Comment specifically notes that “Persons with disabilities would be unable to exercise those [article 29] rights equally and effectively if State Parties failed to ensure that voting procedures, facilities and materials were appropriate, accessible and easy to understand and use. It is also important that political meetings and materials used and produced by political parties or individual candidates participating in public elections are accessible. If not, persons with disabilities are deprived of their right to participate in the political process in an equal manner.”

The CRPD requires states to monitor the implementation of standards for accessibility. The Committee’s second General Comment notes that states should “set up efficient monitoring bodies with adequate capacity and appropriate mandates to make sure that plans, strategies and standardization are implemented and enforced”.

Raising Awareness and Fighting Prevailing Stereotypes

Promoting the effective participation of persons with disabilities is often hindered by prevailing stereotypes. The CRPD places a strong onus on the need “to foster respect for the rights and dignity of persons with disabilities” and “to combat stereotypes, prejudices and harmful practices”. This includes “encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose” of the CRPD. In particular, persons with disabilities should be shown in the media to be participating politically on an equal basis.

Legal Capacity on an Equal Basis with Others

In practical terms, the limitation of legal capacity means that a person is deemed unable to make decisions in either all or some areas of her or his life, and this limitation can be either partial or full. In such cases, legal rights are transferred to a guardian, who is appointed to exercise all or some of the rights on behalf of the person. The CRPD does not support this approach. Rather than removing legal capacity and substituting decision-making, the CRPD focuses on supporting persons with disabilities in exercising their legal rights, including with regard to electoral participation. Article 12 obliges states to “recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life”. The article does not provide for any exceptions, instead specifying that states “take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity”. “Supported decision-making” means that a person can receive the necessary assistance to take certain decisions, including when exercising electoral rights. For a person with an intellectual disability, for example, this mechanism could mean that the court appoints a person or group of persons to advise the person with the disability and help her/him understand the electoral process and the consequences of her/his decisions, including when it comes to voting. A person who is chosen to assist should be legally allowed to assist in the process of voting.

The CRPD Committee has consequently been very clear that the treaty does not permit the removal of legal capacity based on mental or intellectual disability. It is clear that neither general nor individualized court decisions are acceptable bases for the removal of suffrage rights. In 2011, in *Bujdosó and five others v. Hungary*, the Committee heard a case in which persons with intellectual disability were placed under partial or full guardianship and their names automatically removed from the electoral register. The Committee found that the “exclusion of the right to vote on the basis of a perceived, or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability”. This position is reaffirmed in the Committee’s first General Comment.

Political Participation

In terms of electoral participation the centerpiece of the CRPD is Article 29, which covers political participation. It obliges states to take both passive and active measures, that is to say, not only to guarantee rights but to take active measures to facilitate an environment conducive to full participation. Article 29 begins by framing the obligation of states in general terms to “Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others.” Importantly, no exceptions based on disability type are foreseen.

Article 29 explicitly outlines some of the means for achieving this, including by “Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”. It goes on to specify that “Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice.”

Article 29 also obliges states to “promote actively” wider participation in public affairs by persons with disabilities. Included in this is “Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties.”

“Under article 29, persons with disabilities have not only the right, but also the ‘opportunity’ to vote and be elected. This sets up a duty on States Parties to guarantee, through the adoption of positive measures, that all eligible persons have the actual opportunity to exercise their voting rights. Consequently, it is not enough to extend formal voting rights to persons with disabilities; States are also required to ensure that persons with disabilities are truly able to make use of their right to vote, for example by making polling stations accessible to wheelchair users, facilitating the use of assistive voting devices to enable persons with visual impairments to vote independently, or allowing persons with disabilities to be assisted in voting by a person of their choice.”

– *The UN Office of the High Commissioner for Human Rights (OHCHR), 2011*

CRPD, article 29 – Participation in Political and Public Life

“States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) 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 elected, inter alia, by:
 - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
 - (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties.
 - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.”
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C. Other Regional Instruments

This section considers four main regional intergovernmental organizations whose membership includes OSCE participating States and who have instruments to cover disability inclusion. These are the Council of Europe, the European Union (EU), the Commonwealth of Independent States (CIS) and the Organization of American States (OAS).

The Council of Europe

The European Convention on Human Rights (ECHR) includes binding provisions on the right to “free elections” (article 3 of protocol 1). The majority of OSCE participating States are also members of the Council of Europe and, therefore, bound by the ECHR. Following their ratification, they are also bound by its protocols, as well as by other treaties adopted by the Council of Europe that may include election-related obligations. As with the ICCPR, the ECHR prohibits discrimination and, while not explicitly referring to disability, does include a general reference to “other status” (article 14). There is no specific Council of Europe treaty on the rights of persons with disabilities.

At the same time, various bodies of the Council of Europe have issued judgements or recommendations in the further development of standards related to disability. These include judgements of the European Court of Human Rights (ECtHR), recommendations adopted by the Committee of Ministers (the highest political body of the Council of Europe, with recommendations adopted by consensus by all 47 member states), the Parliamentary Assembly of the Council of Europe (PACE) and the European Commission for Democracy through Law (an advisory body in constitutional matters, generally known as the Venice Commission).

In 2006, the Committee of Ministers issued a (non-binding) recommendation on “the Council of Europe Action Plan to Promote the Rights and Full Participation of People with Disabilities in Society” (2006-2015).¹⁴ This noted that “People with disabilities should have the opportunity to influence the destiny of their communities. It is therefore important that people with disabilities be able to exercise their right to vote and participate in political and public activities.”¹⁵ The Recommendation included specific measures related to making voting procedures and facilities accessible, providing for assistance by a person of choice, making information available in alternative formats, and promoting and consulting with representative disability organizations.

The case law of the ECtHR does not fully reflect the approach of the CRPD on the matter of legal capacity. The ECtHR permits the limitation of legal capacity with respect to the right to vote if the limitation is imposed by a court following an individual assessment. This contrasts with the CRPD, which affirms the right of persons with disabilities’ to legal capacity on an equal basis with others and considers any limitation on this as discrimination. Under the CRPD, states have a duty to provide support to persons who require assistance in the exercise of their legal capacity. Such supported decision-making is very different to substituted decision-making, as a person’s legal capacity remains intact in all areas of life.

In 2010 the ECtHR heard the case *Alajos Kiss v. Hungary*, relating to the removal of voting rights based on mental disability.¹⁶ The court’s decision narrowed the basis for the removal of voting rights based on mental disability, by making it contingent on an individualized court decision, rather than a blanket ban. The court stated that “an indiscriminate removal of voting rights, without an individualized judicial evaluation and solely based on a mental disability necessitating partial guardianship, cannot be considered compatible with the legitimate grounds for restricting the right to vote”.

14 Available at <http://www.coe.int/en/web/disability/action-plan-2006-2015>.

15 Council of Europe, Committee of Ministers, 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”. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805af657.

16 See *Alajos Kiss v. Hungary*, Judgment, 20 May 2010 (Application no. 38832/06). Source: <http://hudoc.echr.coe.int/eng?i=001-98800>.

“The CRPD does not specify any exceptions to the rights therein. On the contrary, it stipulates that state authorities ‘shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life’... [there is] No room for procedures in which judges or medical practitioners would assess the voting competence of a person and then give a green light – or not. As we do not test that capability for someone without disabilities, this would amount to blatant discrimination ... The Convention places an obligation on governments to ensure that such assistance is provided if needed, including in exercising the right to vote. There is a huge difference between this approach and just depriving someone of their rights. This is the paradigm shift that the UN Convention represents.”

– *The Council of Europe Commissioner for Human Rights, March 2011*

In November 2011, the Council of Europe’s Committee of Ministers adopted a recommendation on the participation of persons with disabilities in political and public life.¹⁷ This emphasized the CRPD position against restrictions on the right to vote based on mental disability, stating that there should be non-discrimination in the exercise of legal capacity and that “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.” It reiterated points about accessibility and assistance from a person of choice and emphasized the inclusion of persons with disabilities in decision-making and the need for “reliable and comparable information and statistics”. The recommendation also notes that “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.”

Subsequently, in December 2011 the Venice Commission amended its position on the electoral participation of persons with disabilities, by adding a revision to its earlier Code of Good Practice in Electoral Matters (originally issued in 2002). The original Code of Good Practice had allowed for persons judged by a court of law to have mental incapacity to be deprived of their voting rights.¹⁸ The 2011 Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections takes a different position, albeit still with some ambiguity (given the different positions of the ECtHR and the CRPD).¹⁹ It states “Universal suffrage is a fundamental principle of the

17 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. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cbe4e.

18 The original Code of Good Practice stated that deprivation of the right to vote and to be elected based on a finding of mental incapacity may only be “imposed by express decision of a court of law.” Venice Commission, Code of Good Practice in Electoral Matters, 1.1d. Available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-AD\(2002\)023rev-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdf-file=CDL-AD(2002)023rev-e).

19 *Venice Commission Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections*, 2011. Available at <http://www.venice.coe.int/webforms/documents/CDL-AD%282011%29045.aspx>

European Electoral Heritage. People with disabilities may not be discriminated against in this regard, in conformity with article 29 of the CRPD and the case-law of the ECtHR.” The Revised Interpretative Declaration also refers to accessibility of voting procedures and facilities, availability of information in alternative formats, assistance technologies and assistance from a person of choice.

The recommendations of the Committee of Ministers and the interpretations of the Venice Commission hint towards an evolving approach that is in line with the CRPD; however, this has yet to be tested in subsequent case law of the ECtHR.

Such a trend is evident in subsequent Council of Europe strategy papers. In November 2016, the Council of Europe adopted a Strategy on the Rights of Persons with Disabilities for 2017-2023,²⁰ with an emphasis on such rights being interpreted in light of the CRPD. Five priority areas are identified: equality, non-discrimination, awareness raising, accessibility, and equal recognition before the law. The strategy emphasizes that persons with disabilities should enjoy equal recognition before the law and that substituted decision-making should be replaced by supported decision-making. In March 2017, PACE adopted Resolution 2155(2017) on “The political rights of persons with disabilities: a democratic issue”, based on a report prepared by its Committee on Equality and Non-Discrimination.²¹ The Resolution elaborates on the challenges and good practices in the Council of Europe member states, and also renews PACE’s call for the replacement of substituted decision-making by supported decision-making mechanisms.²²

The European Union

The EU’s commitment to the rights of persons with disabilities is demonstrated by its ratification of the CRPD in 2010. The right of EU citizens to vote in European and municipal elections is grounded in the Treaty on the Functioning of the European Union, as well as the EU Charter of Fundamental Rights. Article 21 of the Charter refers to non-discrimination in all areas of EU action, including in elections. The European Disability Strategy 2010-2020 sets the objective of achieving the “full participation of people with disabilities by: enabling them to enjoy all the benefits of EU citizenship; and removing administrative and attitudinal barriers to full and equal participation”.²³

Other positive initiatives by the EU include the 2016 EU Directive on the Accessibility of Websites and Mobile Applications of Public Sector Bodies (Web Directive). This sets out accessibility requirements of the websites and mobile applications of public-sector bodies to make them more accessible to users in the EU Member States, in particular to persons

20 Available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806fe7d4>

21 Available at: <http://website-pace.net/documents/19879/3143407/20170130-Droitshandicapes-EN.pdf/e30d56a9-e78c-4691-b30b-1f1e1da0dd7>.

22 See also Resolution 2039(2015) on “Equality and inclusion for persons with disabilities”, adopted by PACE on 30 January 2015 (§5): <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=21339&lang=EN>.

23 European Disability Strategy 2010–2020: A Renewed commitment to a Barrier-Free Europe. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:EN:PDF>.

with disabilities.²⁴ In addition, there is a European Parliament resolution on the use of sign language interpretation which “emphasises that public and government services, including their online content, must be made accessible via live intermediaries such as on-site sign language interpreters, but also alternative internet-based and remote services, where appropriate...”. It also refers to “making the political process as accessible as possible, including through the provision of professional sign language interpreters;” and “notes that this includes elections, public consultations and other events, as appropriate”.²⁵

The Commonwealth of Independent States

The 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedom in the Member States of the CIS (CIS Convention) does not make specific reference to the participation of persons with disabilities in elections. However, article 2 mentions that “the citizen’s right to elect and to be elected to the bodies of state power, to local self-governments, to other people’s (national) representation and other elected posts does not depend on and is exercised without any limitations of a discriminatory nature in terms of sex, language, religion or denomination, political or other convictions, national or social origin, membership of a national minority or ethnic group, property status or other circumstances”.

The Organization of American States

In 1978, the American Convention on Human Rights came into force, with general provisions on the right to participate in government, similar in language to those contained in the ICCPR. However it noted “The law may regulate the exercise of the rights and opportunities referred to in the preceding paragraph only on the basis of... civil and mental capacity.”²⁶ Later, in September 2001, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities came into force.²⁷ While there is no explicit mention of voting or standing as a candidate in an election, there is reference to promoting integration in political and administrative activities. However, the convention provided under certain conditions for persons with disabilities to be declared incompetent.²⁸ Importantly, in 2011, the treaty committee said that this must be reinterpreted in view of the CRPD, and asked parties to the Convention to amend the treaty to bring it in line with the Convention.²⁹

24 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L2102>

25 European Parliament resolution, 23 November 2016 (2016/2952[RSP]). Available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0442+o+DOC+XML+Vo//EN>.

26 American Convention on Human Rights, article 23. Available at: <http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

27 Available at: <http://www.oas.org/juridico/english/treaties/a-65.html>.

28 “If, under a state’s internal law, a person can be declared legally incompetent, when necessary and appropriate for his or her well-being, such declaration does not constitute discrimination.” Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, article I.2.b.

29 OAS Committee for the Elimination of All forms of Discrimination against Persons with Disabilities (CEDDIS) OEA/Ser.L/XXIV.3.1, CEDDIS/doc.12(I-E/11) rev.1, May 4 and 5, 2011 Available at: http://www.sedi.oas.org/ddse/documentos/Discapacidad/English/CEDDIS-%20NY_ENG.pdf.



Chapter 2: Participation Barriers

The extent of participation of persons with disabilities in the electoral process is hard to measure given the lack of available data across the OSCE region. What evidence is available appears to indicate that persons with disabilities are generally under-represented as voters, candidates, in elected positions, in political parties, in election administrations and as election observers. This has been increasingly recognized. For example the Council of Europe Committee of Ministers noted in 2011 that “persons with disabilities generally account for a small proportion of those involved in public affairs and occupying representative functions”.³⁰ Similarly, academic publications have noted “there have been some pioneering national electoral studies that do consider disability... Such researchers found voter turnout to be lower amongst disabled people than non-disabled people”.³¹ Under-participation is often attributed to legal barriers, negative public attitudes, lack of knowledge, accessibility issues, and lack of resources and support for running and serving in office.

Disability advocacy groups have argued that reduced electoral participation is a sign of political discrimination, which perpetuates stigma and marginalization.³² The removal of legal

30 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. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cbe4e

31 *The Political Participation of Disabled People in Europe: Rights, Accessibility and Activism*, Priestley, Stickings, Loja, Grammenos, Lawson, Waddington, and Fridriksdottir, 2016. *Electoral Studies* 42 (2016) 1-9, Elsevier.

32 See, for example, the Mental Disability Advocacy Center, <http://mdac.info/en>.

capacity from persons with mental or intellectual disabilities (and sometimes persons with other types of disabilities) has often resulted in the deprivation of their electoral rights. In some jurisdictions joining a political party or civil society organization (CSO) have also been legally precluded.³³ The requirement for persons with mental disabilities to prove they have “proper judgement” has been criticized by various DPOs for being highly discriminatory and arbitrary, especially given that no other group has to prove political capacity (this was also criticized by the Council of Europe Commissioner for Human Rights in March 2011). The CRPD Committee noted that “Historically, persons with disabilities have been denied their right to legal capacity in many areas in a discriminatory manner under substitute decision-making regimes such as guardianship, conservatorship and mental health laws.”³⁴ As discussed above, the CRPD does not provide for substituted decision-making, instead emphasizing supported decision-making, with persons with disabilities retaining legal capacity.

The reason for insufficient access arrangements for persons with disabilities may partly be a consequence of a lack of involvement and consultation with affected groups. This trend has resulted in a frequent call for the adoption of a “nothing about us without us” approach.³⁵ Such consultation helps reduce discrimination, promotes appropriate advances that are empowering and realistic and encourages wider participation. The value of this approach has been increasingly recognized in practice and in academic literature. For example, “... research in the UK drew attention to the specific barriers facing persons with intellectual impairments and the importance of social capital and networks of support as enablers of political participation (Bell et al., 2001; Keeley et al., 2008; Redley, 2008). These findings suggest that establishing political rights and providing accessibility may not be sufficient to achieve full participation without also engaging proactively with disabled people in civil society and with their political claims.”³⁶

Similarly, the 2016 Report of the UN Special Rapporteur on the Rights of Persons with Disabilities commented that “As was evident in the process leading to the adoption of the CRPD, the participation of persons with disabilities in public decision-making can have an enormous impact on government actions affecting them and can lead to better decisions, since persons with disabilities are best positioned to identify their own needs and the most suitable policies for meeting them. Their participation ensures that States’ policies and programmes are devised on the basis of their needs and preferences.”³⁷

33 European Union Agency for Fundamental Rights, the Right to Political Participation of Persons with Disabilities, page 36 <http://fra.europa.eu/en/publication/2014/indicators-right-political-participation-people-disabilities>.

34 Committee on the Rights of Persons with Disabilities, General Comment No. 1 (2014). Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/O31/20/PDF/G14O3120.pdf?OpenElement>.

35 See for example the European Disability Forum. Available at <http://www.edf-feph.org>.

36 *The Political Participation of Disabled People in Europe: Rights, Accessibility and Activism*, Priestley, Stickings, Loja, Grammenos, Lawson, Waddington, and Fridriksdottir, 2016. *Electoral Studies* 42 (2016) 1-9, Elsevier.

37 *Report of the Special Rapporteur on the Rights of Persons with Disabilities*, Human Rights Council, 2016. http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_62_E.doc&action=default&DefaultItemOpen=1.

DPOs have become increasingly active on political rights issues, including in monitoring and documenting problems, bringing legal challenges and undertaking advocacy. The advancing of the international legal framework through the CRPD has introduced new obligations on states that have signed or agreed to be bound by the treaty, resulting in improved domestic action plans, laws and provisions. However, there is a wide range of gaps in compliance, as noted in research published in 2014 by the EU Agency for Fundamental Rights (FRA), which looked at the right to political participation of persons with disabilities within the EU.³⁸

Women with disabilities face particular challenges to their participation in political life, including in electoral processes. They can encounter multiple forms of discrimination, which can leave them at even higher risks of exclusion and under-representation.

The Committee on the Rights of Persons with Disabilities stated that “There is strong evidence to show that women and girls with disabilities face barriers in most areas of life. These barriers create situations of multiple and intersecting forms of discrimination against women and girls with disabilities, in particular with regard to: equal access to education, economic opportunities, social interaction and justice; equal recognition before the law; and the ability to participate in politics and to exercise control over their own lives across a range of contexts...”. With regard to participation, the Committee specifically noted that “The voices of women and girls with disabilities have historically been silenced and thus women and girls with disabilities are disproportionately underrepresented in public decision-making.”³⁹

Exclusion from electoral participation results in the interests of an excluded group not being heard and addressed. Without the right and opportunity to participate as voters and candidates, persons with disabilities risk being further marginalized in society, to their own and society’s detriment. Electoral participation is essential for individuals’ overall inclusion in society. Furthermore, exclusion weakens the inclusiveness of government, and therefore the extent to which the will of the people is being effectively considered.

38 The FRA report covers only EU Member States. Available at <http://fra.europa.eu/en/publication/2014/indicators-right-political-participation-people-disabilities>.

39 Committee on the Rights of Persons with Disabilities, General Comment 3, 2016.



Chapter 3: The Electoral Cycle and the Participation of Persons with Disabilities

This section looks at issues ODIHR observers need to consider when assessing the electoral participation of persons with disabilities. Questions have been identified that provide a structure for data collection and subsequent analysis by the core teams of ODIHR missions. Missions will then identify key issues to emphasize in public reports, and then make corresponding recommendations.

The issues and questions identified below look at the range of areas ODIHR observers will focus on at different stages of the electoral cycle. As is standard with ODIHR election observation activities, information is collected through a core team of experts in the capital and long-term observers in the regions, and is then subject to verification and analysis. Given the limited time and resources available and the multiple electoral issues that missions need to cover, it may not be possible to cover all identified questions during the mission, in which case the most pertinent issues should be considered.

A. The Pre-Election Period

This section looks at issues ODIHR observers will look at during the pre-election period. It focuses on the international instruments a country has committed to and on domestic legislation, as well as the election administration, the campaigns and political parties. It also focuses on the extent to which there are enabling conditions, disaggregated data, consultation with DPOs and electoral information in formats accessible to persons with disabilities, as well as whether there are limitations on the legal capacity of persons with disabilities.

The Status of International Instruments

Election observation and assessment missions need to first check whether a country has ratified or acceded to the CRPD. The OSCE 1989 Concluding Document of the Vienna Meeting refers to OSCE participating States considering accession to the ICCPR and “other relevant international instruments, if they have not done so”.⁴⁰ Thus, it is consistent for ODIHR election observation activities to recommend CRPD ratification if a country is not yet state party to the treaty, and similarly to recommend the withdrawal of any reservations made by a state party that may affect rights under article 29. Reservations, which are essentially caveats to a states’ acceptance of a treaty, are made at the time of ratification/accession, and should be specific and not incompatible with the object and purpose of the Convention.⁴¹ Declarations, although not limiting the legal effects of a treaty, can have a de facto similar effect to a reservation.⁴² If a country has signed but not yet ratified, it is still expected to follow the object and purpose of the treaty, even though it is not yet legally bound.⁴³ Once the CRPD has been ratified, national legislation is required to be consistent with the treaty, and to provide for the promotion and protection of the rights committed to in the treaty.

If a country has ratified/acceded to the CRPD, it will have a schedule for regular reporting, to which the Committee on the Rights of Persons with Disabilities will respond with concluding observations, including suggestions and recommendations. In addition to the reports from the country, alternative or shadow reports may be submitted (these are civil society reports submitted instead of or in addition to state reports, respectively). These documents provide authoritative information on the state of compliance and future improvements.

40 Concluding Document of the Vienna Meeting, 1989, paragraph 13.2. Available at: <http://www.osce.org/mc/40881?download=true>.

41 Vienna Convention on the Law of Treaties, 1969, article 2(1)(d), “unilateral statement, however phrased or named, made by a State, when signing, ratifying, accepting, approving or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State”.

42 The Treaty Handbook of the United Nations states that a “State may make a declaration about its understanding of a matter contained in or the interpretation of a particular provision in a treaty. Interpretative declarations of this kind, unlike reservations, do not purport to exclude or modify the legal effects of a treaty. The purpose of an interpretative declaration is to clarify the meaning of certain provisions or of the entire treaty.” Available at <https://treaties.un.org/doc/source/publications/THB/English.pdf>.

43 Vienna Convention on the Law of Treaties, 1969.

#	Questions	Lead observation mission expert
1	Has the state ratified or acceded to the CRPD and, if so, has it made any reservations or declarations relevant to electoral participation (in particular articles 29, 9 and 12)? Has the state ratified or acceded to the Optional Protocol to the CRPD? Has the state ratified or acceded to other relevant conventions? Were there changes to the national legislation after the ratification, and did those changes comply with the state's obligations?	Legal analyst
2	Has the state reported to the Committee on the Rights of Persons with Disabilities on electoral participation issues? Were shadow or alternative reports submitted? What were the concluding observations of the Committee related to the electoral participation of persons with disabilities? Has the state reported to other treaty monitoring bodies on issues related to the electoral participation of persons with disabilities, for example the UN Human Rights Council or the Committee on the Elimination of Discrimination against Women (CEDAW)?	Legal analyst

The Legal Framework and General Accessibility Requirements

Very few OSCE participating States have legislation that specifically refers to the participation of persons with disabilities in political and public life. Similarly, few countries define inadequate universal design and the lack of provision of reasonable accommodation as forms of discrimination. ODIHR missions need, therefore, to review and analyse the domestic legislation with regard to disability inclusion provisions.

Enabling conditions entail having the basic structures in place to promote participation by persons with disabilities in society in general. This means a framework for the promotion of the rights of persons with disabilities and provisions for accessibility, including to buildings, built environment (the human-made space in which persons live, work and recreate on a day-to-day basis) and to information in general. It is particularly important, since polling stations are usually located in the publicly or state-owned venues.

General accessibility requirements for buildings and information contribute to a more enabling environment for electoral participation. Under CRPD article 9 on accessibility, there is an obligation for states to “take appropriate measures to ensure to persons with disabilities access, on an equal basis with others” to “the physical environment... information and communications”. Article 9 goes on to refer explicitly to appropriate measures to “Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public”. Measures can include dedicated car parking, ramps, wheelchair-accessible bathrooms, signs on rooms, and directions. States are required “to provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities”.⁴⁴

44 CRPD article 4.1(h).

Legal requirements for accessible information through multiple formats have obvious applicability to elections, given how fundamental it is for voters and candidates to be able to receive and provide information. The CRPD refers to sign language, the display of text, Braille, tactile communication, large print and accessible multimedia, as well as written, audio, easy-to-read formatted, human-reader and augmentative and alternative formats of communication. The provision of information in such formats might be required from the election administration, the judiciary, publicly funded media, political parties and/or civil society organizations.

International guidance on the accessibility of web content is established in the Web Content Accessibility Guidelines (WCAG) standards, published by the World Wide Web Consortium (W3C), the main international standards organization for the Internet.⁴⁵ These guidelines refer to how web content can be made more accessible for a range of persons with disabilities, and to all web-users. The current version, WCAG 2.0, was published in December 2008. Accessibility standards for public and private audio-visual media should also be considered.

CRPD, article 2 – Definitions

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages;

“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 specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

45 <https://www.w3.org/TR/WCAG20/>.

CRPD, 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.
2. States Parties shall also take appropriate measures to:
 - (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
 - (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
 - (c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
 - (d) Provide in buildings and other facilities open to the public signage in Braille and in easy-to-read and understand forms;
 - (e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
 - (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
 - (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
 - (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

#	Questions	Lead observation mission expert
3	Is there a national strategy or action plan on disability that includes the right to political participation? Is there a mechanism for reviewing implementation, and is the process consultative? Is there public reporting?	Legal analyst
4	Are there general legal standards regarding accessibility of information? Do legal standards on accessibility also apply to the election administration, political parties and civil society organizations? Are there legal standards on accessibility for public and private providers of Internet-based public information? Are there legal standards on accessibility for public and private audio-visual media?	Legal analyst

5	Are there general legal standards on accessibility for buildings, and infrastructure in general? Do these cover the election administration, political parties and civil society? Are there mandatory standards on accessibility for national and local authority buildings?	Legal analyst
6	Are explicit legal provisions in place concerning the electoral participation of persons with disabilities? Are there any explicit legal provisions on non-discrimination related to the electoral participation of persons with disabilities? Have inadequate universal design and denial of reasonable accommodation been defined as forms of discrimination in national legislation?	Legal analyst

Disaggregated Data

The CRPD makes specific requirements with regard to data being disaggregated and disseminated. However, the Committee on the Rights of Persons with Disabilities has, in all of its concluding observations since 2011, expressed concern at the lack or low level of disability disaggregated reliable data, and has noted a further lack of gender-disaggregation.⁴⁶ The Committee has also emphasized the failure of data collected to cover the diversity of persons with disabilities. In the election context, it is important to have disaggregated data, for example, on the registration and turnout of persons with disabilities, so that their voting participation can be assessed. It may also be useful to have data on the number of persons with disabilities who have registered as candidates and the number of persons with disabilities serving on election commissions at each level.

The lack of data disaggregated by disability is seen as one of the main obstacles to the development of appropriate policies to address core problems and the provision of needs-based measures. The CRPD Committee recommends that states “update and collect data and statistics on persons with disabilities disaggregated by age, sex, type of impairment, ethnicity and geographic position, including the type of residential or institutional setting, cases filed for discrimination and/or for violence against these persons, and using a human rights-based approach. While developing these processes, it recommends the State Party meaningfully involve with organizations of persons with disabilities.”⁴⁷ In 2011, the UN Office of the High Commissioner for Human Rights (OHCHR) noted that “only a few respondent States collect statistical information on the inclusion of persons with disabilities in political and public life”.⁴⁸

Gathering disability data is challenging. Nobody can be forced to reveal their disability status, out of respect for the right to privacy. Classic data-collection methodologies, such as door-to-door, telephone and Internet interviews, can disproportionately exclude persons with certain types of disabilities, for example persons living in institutions or persons with

46 Since 2011, the Committee has adopted concluding observations regarding the EU and 47 States Party to the Convention, including 18 OSCE participating States.

47 Concluding observations Serbia (CRPD/C/SRB/CO/1).

48 Paragraph 63. Thematic Study of the UN High Commissioner for Human Rights on Participation in Political and Public Life by Persons with Disabilities, 2011. Available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-36_en.pdf.

hearing or intellectual disabilities. It can be especially difficult to collect data about persons with psychosocial and other “invisible” disabilities, for example because of prevailing societal stigmas. Furthermore, collecting data on disability is sensitive and can be subject to manipulation, while figures based on observation are limited by the fact that they only reflect data on persons with obvious visible disabilities.

The questions suggested by the Washington Group, a United Nations Statistics Commission comprising representatives of national statistical offices, are more widely recommended in this respect, with their focus on functionality that may restrict the participation, rather than classification of disability.⁴⁹ For example, such questions as “Does a person using a hearing aid? Does a person have difficulty in walking or climbing the steps?” The election administration could be encouraged to collect information on accommodation types that voters need, rather than disability type. This will lead to more people self-identifying and the availability of more useable data.

CRPD, article 31 Statistics and Data Collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:
 - (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
 - (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.
 2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties’ obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.
 3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.
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⁴⁹ The Washington Group works on developing methods to better improve statistics on persons with disabilities globally, with input from various international agencies and experts. These include UN agencies, bilateral aid agencies, NGOs, Disabled Persons’ Organizations, and researchers. See more at <http://www.washingtongroup-disability.com/>.

#	Questions	Lead observation mission expert
7	Are there legal requirements that electoral data be disaggregated by various types of disabilities and gender? For example on voters, candidates and those elected. Are any such data required to be made public? Are there data-protection provisions and, if so, how are they interpreted in relation with the CRPD obligations?	Legal analyst
8	Are electoral data disaggregated by disability available? For example on voters, candidates and those elected. Are the data also disaggregated by gender? Is there confidence in the data and, if not, what were the reasons mentioned?	Election Analyst

Consultation and Involvement

Persons with disabilities have long campaigned to be involved in decisions about their lives. The CRPD requires in article 4.3 that States Parties “closely consult with and actively involve persons with disabilities”. This means engaging with organizations that are formed by persons with disabilities themselves, rather than only consulting parents’ and caregivers’ organizations, or organizations formed by others for persons with disabilities. The CRPD Committee emphasizes the need to ensure that “the mechanisms put in place to facilitate voting assistance are developed in close consultation with organizations of persons with disabilities to suit their needs”.⁵⁰

In the development of its election observation methodology, ODIHR pays specific attention to the inclusion of politically under-represented groups. The 2016 ODIHR Handbook on the Follow-up of Electoral Recommendations states that “the inclusion of politically under-represented groups in the process should be meaningful and not superficial. This involves working with groups that are broadly representative, providing information in advance so that issues and choices can be well understood, and giving opportunities for questions and suggestions. Such consultations should be regular rather than one-off, and should be publicly documented.”⁵¹

50 Concluding observations, Sweden 2014 (CRPD/C/SWE/CO/1).

51 Handbook on the Follow-up of Electoral Recommendations (Warsaw, OSCE Office for Democratic Institutions and Human Rights, 2016). Available at <http://www.osce.org/odihr/elections/119893>.

Good practice examples in the OSCE region

- A legal act in one OSCE participating State obliged state bodies to consult and co-operate with DPOs in the formation of national policies and measures. The act also defined the responsibilities of the DPOs in representing the interests of persons with disabilities, identifying their representatives to state bodies, and co-ordinating with other DPOs. This helped persons with disabilities be engaged in discussions about their rights, and the consequent development of good practices.
- An election management body (EMB) in one OSCE participating State worked with a number of external organizations and persons with disabilities to provide information about its services. Through the formation of an advisory group, subject matter expertise and advice on accessibility initiatives were provided. The group also helped to identify the best ways to inform persons with disabilities of when, where and the ways to register and vote.
- In another OSCE participating State, DPOs were invited by the Ministry of the Interior and the Ministry of Health to participate in the drafting process of a law establishing the basic conditions of accessibility and non-discrimination to be met by environments, products and services necessary for the participation of persons with disabilities in political and electoral processes. *“Full participation in political life implies rights and obligations. Persons with disabilities should be assisted to participate in the whole process, including as a member of a polling station.”* – was the statement from the Ministry of Health, Social Services and Equality.

#	Questions	Lead observation mission expert
9	Are there legal requirements for consultation with and the active involvement of DPOs with regards to elections? Is the election administration required to consult at the national and/or local level? Are there any requirements for publicly funded media to consult with DPOs on the transmission of electoral information?	Legal analyst
10	Have DPOs been consulted in any legislative reform initiatives? Do the views of DPOs appear to have been incorporated? If not, what was the justification (if any)?	Legal analyst

11	Has the election administration undertaken consultations with DPOs and, if not, why? Do the views of DPOs appear to have been incorporated? Has this been at national and local levels? Does the election administration have a policy on disability? Does the election administration have a focal point for disability inclusion?	Election analyst
12	Have publicly funded media undertaken consultations with DPOs regarding the accessibility of campaign coverage and electoral information? Do the views of DPOs appear to have been be incorporated?	Media analyst

Participation Rights

A clear legislative barrier to participation is the removal of electoral rights from persons declared by a court to be legally incapable. As described above, this was previously accepted by the Human Rights Committee (the ICCPR treaty body), by the ECtHR and by the Venice Commission. However, there has been a legal evolution, with the CRPD not permitting such practices, considering them discriminatory. The CRPD states that persons with disabilities should enjoy legal capacity to vote and stand as candidates on an equal basis with others, without any exceptions. The focus has moved from the removal of rights to the provision of necessary assistance through supported decision-making. Persons with psychosocial and intellectual disabilities, in particular, are affected by these provisions.

In 2011, the OHCHR released a report that noted “In the majority of countries that responded to the OHCHR questionnaire, persons with psychosocial and intellectual disabilities continue to be deprived of their right to vote and be elected on the basis of constitutional or legal provisions that link their political rights to legal capacity... Only a small number of countries have lifted all restrictions on the political participation of persons with psychosocial or intellectual disabilities... These limitations reflect an outdated and discriminatory approach to persons with disabilities and their role in society which is inconsistent with the obligations arising from the CRPD.”⁵²

In the overwhelming majority of OSCE participating States, the right to vote and stand as a candidate is linked to legal capacity, resulting in restrictions on participation, in contradiction to the CRPD. In a few OSCE participating States there are no limitations on voting by persons with disabilities, including those under guardianship. Similarly, research published by FRA in 2014 found that only 7 out of 28 EU Member States guaranteed the right to vote to all people, regardless of disability. Fifteen countries prohibited persons with disabilities who have been deprived of their legal capacity from voting. In countries where such limitations

⁵² Paragraphs 70, 39 and 43. *Thematic Study of the UN High Commissioner for Human Rights on Participation in Political and Public Life by Persons with Disabilities*, 2011. Paragraph 38 also notes that “... in many countries, the right to political participation continues to be linked to the legal capacity of the individual. Some States have an automatic or quasi-automatic exclusion provision in their legal systems. They deny the right to political participation to all persons under a protective measure, such as a partial and plenary guardianship, regardless of their actual and/or individual level of functional ability or whether they have an intellectual disability or a mental health problem. In other countries, the capacity of persons with psychosocial or intellectual disabilities to vote is subject to an individual assessment carried out by a medical practitioner or by a judge of the individual’s actual ability to vote.” Available at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-36_en.pdf.

exist, the right to vote can be either restricted automatically, as a result of limited legal capacity, or following an individualized assessment of a person’s ability to vote.

Removal of legal capacity also often precludes the opportunity to make a complaint or appeal. The 2014 FRA report found that in 19 EU countries only persons with legal capacity could access complaints mechanisms related to political participation rights. Thus, in these jurisdictions, persons with disabilities who have been deprived of their legal capacity do not have independent or direct access to redress mechanisms (including from non-judicial institutions, such as national human rights institutions and equality bodies).

Good practice example in the OSCE region

Legal provisions provide for assisted decision-making, which helps persons with disabilities participate as fully as possible, giving effect as far as is practicable to the past and present will and preferences of a person (with no reference to “best interests”). The law in this OSCE participating State provides for an assisted decision-making agreement, whereby a person can appoint a “decision-making assistant” to support her or him. The assistant is not entitled to make decisions on behalf of the person but, instead, can obtain information, advise, ascertain the person’s will and preferences, assist the person to express her or his decisions, and endeavor to ensure that the persons’ decisions are implemented. The agreement can be revoked at any time. The possibility for co-decision making agreements also exists, whereby the co-decision maker can jointly make one or many decisions.

#	Questions	Lead observation mission expert
13	Are there any legislative restrictions on electoral participation (as a candidate or voter) linked to legal capacity? If there are restrictions, is an individual court decision required on capacity with respect to the right to vote? Where legislation does not foresee the deprivation of legal capacity, are there any support mechanisms for persons with disabilities to exercise their right to vote?	Legal analyst
14	Are complaints and appeals mechanisms legally available to persons restricted from voting for reasons of legal capacity? Is it also possible to make complaints to non-judicial institutions (such as human rights institutions, equality bodies etc.)?	Legal analyst
15	If there are any legislative restrictions on electoral participation based on legal capacity, are any official statistics available on the number of persons affected? Are there reports of the misuse of legal capacity restrictions?	Legal analyst

Raising Awareness and Electoral Information

In the section above, on “Enabling Conditions”, the importance of information available in multiple formats was emphasized. It is necessary for voters with disabilities to understand the process, to follow what is happening with the election, and to be able to make a complaint if needed. Forms of accessible information can include easy-to-read materials, large print versions, Braille and audio-visual materials (including with sign language interpretation). The election administration and media also have a responsibility to raise awareness about the participation of persons with disabilities and to combat stereotypes, thereby promoting political participation.

With respect to the implementation of article 29 of the Convention, the CRPD Committee emphasizes the need to ensure that “information about elections is provided in accessible formats” and that “voter education through mass media is made accessible”.⁵³ Publicly funded media, in particular, have a responsibility to promote the fulfilment of CRPD obligations. Therefore, an election observation mission needs to consider what such outlets are doing to raise awareness and combat stereotypes. Private media, while not having such an obligation, may also be required to be accessible. Some private outlets may also choose to be available in multiple formats, to actively combat stereotypes and to increase disability inclusion.

Good practice examples in the OSCE region

- The election authority in one OSCE participating State provided films with sign language interpretation about the election system and voting on its website. Information on political parties and candidates was broadcast on public and private television. The publicly funded media outlet made its programmes accessible to persons with disabilities, by offering subtitles, spoken text, sign language interpretation and audio descriptions of the programmes.
- The government in one OSCE participating State published an easy-to-read guide on voting and registration procedures, produced by an association that represents and supports persons with learning disabilities. The association also produced an easy-to-read version of the programmes of the political parties contesting the election. In addition, the electoral commission, working with the same association, published a joint factsheet for the election to inform voters with disabilities of their rights.

53 Concluding observations, Sweden 2014 (CRPD/C/SWE/CO/1).

#	Questions	Lead observation mission expert
16	Does the election administration provide information according to accessibility standards and in multiple formats, including in easy-to-read and large-print format materials, Braille ballot guides, and with sign language interpretation? Is such information available locally as well as nationally? Does it cover voter education? Does it provide information on accessible electoral facilities? Does it cover general electoral updates (e.g., press releases, announcements, data)? What are the views of DPOs about the information provision?	Election analyst
17	Do the publicly funded media provide election-related information according to accessibility standards in multiple formats? If so, does this cover voter education and campaign information? Do candidates with disabilities have access to the media equal to that of other candidates? What are the views of DPOs about the provision of information by publicly funded media? What about private media outlets?	Media analyst

Election Administration

If there is an active voter registration procedure, it may be disproportionately burdensome on persons with disabilities, and may be particularly challenging for persons in institutions if special arrangements are not made. Similarly, if voter registration is passive, based on a civil registry, there might be disproportionate challenges in being enrolled and obtaining required identification. Registrants with disabilities may also be required to report their disability so that the election administration is aware of the services it needs to provide.

Similarly, a candidate nomination process may be de facto difficult to access if, for example, nomination papers are required to be submitted in person and accessibility standards are not met. Also, if there are negative prevailing attitudes about disability, it could be hard for a person with disabilities to be nominated and run as a candidate, and extra support is warranted.

The Committee on the Rights of Persons with Disabilities emphasizes the need to ensure that “polling assistants are trained to accommodate voters”.⁵⁴ Likewise, election administration staff at all levels will need training in order to support electoral participation by persons with disabilities. Article 4 of the CRPD, on general obligations, commits States Parties “to promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention”. Article 9, on accessibility, also refers to providing “training for stakeholders on accessibility issues facing persons with disabilities”.

54 Concluding observations, Sweden 2014 (CRPD/C/SWE/CO/1).

Good practice example in the OSCE region

The Central Election Committee in one OSCE participating State employed four disabled persons in its call centre for parliamentary elections. One of the employed individuals was blind, and the election administration created the necessary conditions for the employee to independently perform the required duties. Simultaneously, in the employment process the Commission also implemented qualification-raising and capacity-building for persons with disabilities.

#	Questions	Lead observation mission expert
18	Is the voter registration process burdensome for persons with different kinds of disabilities, thereby risking reduced access? Are there obstacles to obtaining identification, thereby risking reduced access? Are there any special measures for persons with disabilities to register to vote?	Election analyst
19	Is the candidate nomination process burdensome for persons with different kinds of disabilities (thereby risking reduced access)? Is any additional support available for persons with disabilities to register as candidates?	Election analyst
20	Is the election administration undertaking effective training on disability inclusion? Does this emphasize the rights of persons with disabilities? Does this explain key issues, such as accessibility of services, assistance from a person of choice, and information availability? Does the election administration have a training and voter education programme for DPOs?	Election analyst

Election Campaigns and Political Parties

Persons with disabilities need to be able to gather information from parties and candidates and to participate in campaign events in order to make informed choices. Candidates with disabilities need to be able to campaign if they are to have an equal opportunity to compete in an election. Societal prejudices can make running as a candidate very difficult, with, for example, persons with disabilities at risk of being stigmatized or being the targets of hate-crimes.⁵⁵ In addition, persons with disabilities may not have sufficient funds for campaigning and face additional expenses related to disability, for example particular transportation costs or for sign language interpretation.

Article 29 of the CRPD specifies that States Parties should undertake measures to encourage the participation of persons with disabilities “in non-governmental organizations and

⁵⁵ See for example *Hate Crimes Against People with Disabilities, Hate Crime Reporting*, OSCE/ODIHR, 2016. Available at <http://www.osce.org/odihr/290021>.

associations concerned with the public and political life of the country, and in the activities and administration of political parties”.

The CRPD Committee has recommended that states facilitate assistance for persons with disabilities to be candidates in national as well as local elections,⁵⁶ and that persons with disabilities elected to public positions be provided with all required support, including personal assistants.⁵⁷ However, individual assistance appears to only be available in very few OSCE participating States. Such assistance could include financial support, equal access to publicly funded media, accessibility support during campaign events, and/or an assistant.

The Committee on the Rights of Persons with Disabilities has emphasized the need to ensure that “electoral campaigns are fully accessible”,⁵⁸ and expressed concern over inaccessible electoral processes, including political campaigns.⁵⁹

While political party programmes sometimes include commitments to promoting more inclusive and integrated societies, they often refer to persons with disabilities only as recipients of social services and health assistance, and not as participants in the electoral process.

Good practice examples in the OSCE region

- The government in one OSCE participating State produced materials to promote and explain legal obligations that apply to political parties under the CRPD. It also worked with political parties to analyse their existing disability-access policies, so as to promote the broader introduction of good practices.
- With the goal of informing visually impaired voters, in close co-operation with the Central Election Commission, a local non-governmental organization in one OSCE participating State prepared information on the programmes of political parties in audio format. This information was published on the informational website for voters.
- A dedicated fund was established by the authorities in one OSCE participating State to cover additional costs that persons with disabilities could face when running as candidates, including, for example, extra transport costs and sign-language interpretation.

56 Concluding observations, Croatia (CRPD/C/HRV/CO/1), Turkmenistan (CRPD/C/TKM/CO/1).

57 Concluding observations, Sweden (CRPD/C/SWE/CO/1).

58 Concluding observations, Sweden 2014 (CRPD/C/SWE/CO/1).

59 Concluding observations, Portugal (CRPD/C/PRT/CO/1).

#	Questions	Lead observation mission expert
21	Do political parties/candidates provide information in formats accessible to persons with various types of disabilities? If so, do all parties do this or just some? Does this cover the main campaign issues and/or information about the parties and candidates?	Political analyst
22	Is any extra support given to candidates with disabilities? Are additional funds provided to cover costs for campaigning? Are campaign events disability-inclusive? Are venues physically accessible? Are there multiple formats of presentation (for example sign language, subtitles or easy-to-read format materials)? Is there any discussion of disability inclusion?	Political analyst
23	Do political parties/candidates have policies on promoting the rights of persons with disabilities and/or participation of persons with disabilities in the party and as candidates? Do they have data on persons with disabilities within the party? Do they have anything on disability inclusion in their manifestos? Do political parties receive state-provided financial support to increase the participation of persons with disabilities in their structures?	Political analyst
24	Do publicly funded media have any policies or practices on promoting the participation of candidates with disabilities or the discussion of disability inclusion in the campaign process? Do public media provide campaign information in multiple accessible formats? Do any private media have such policies or practices? Is reporting presented from a rights-based perspective?	Media analyst

B. Election Day

This section looks at accessible processes, assistive tools, assistance from a person of choice, and alternative voting mechanisms. The CRPD obliges states to provide for electoral processes that follow the principle of universal design, so that they are as accessible as possible. In addition, reasonable accommodation (modifications and adjustments for specific individual needs) should be made to support persons with particular disabilities. Various issues need to be considered, such as the design of facilities, procedures permitted, access to information and forms of authorized assistance, so that voting processes are accessible to persons with different kinds of disabilities, including sensory, physical, mental health and intellectual.

Accessible Voting Processes

Various types of problems can arise with regards to accessibility. These include polling stations that do not provide for independent practical access for persons with physical and sensory disabilities. Measures that can be taken to improve physical access include level access, designated car parking, automatic doors, toilets that meet accessibility standards,

signage, space for wheelchair manoeuvrability, lack of obstacles, and good lighting. Information access can also be problematic, including where there is a lack of voter education in alternative formats to make it possible for persons with sensory or intellectual disabilities to be able to know how to mark their ballots.

Good practice example in the OSCE region

The election legislation in one OSCE participating State prescribes that premises for polling stations should be both suitable for registering voters and accessible for voters. In addition, an Anti-Discrimination and Accessibility Act requires that the election authorities ensure accessibility for everyone, irrespective of functional ability. Voting equipment and materials that meet universal design requirements are ordered by the municipalities and the equipment is being tested by the DPOs. As part of this, voting equipment, including voting booths, was produced that is accessible for everyone.

#	Questions	Lead observation mission expert
25	Are there any legal provisions that electoral processes be made accessible by taking all reasonable measures? Are there legal accessibility standards for polling stations? Do these standards address different kinds of disabilities? Are there legal provisions for voting by persons in long-term institutions?	Legal analyst
26	Are buildings used by electoral authorities and for voting accessible to persons with various types of disabilities? Do they meet the legal standards of the country (if there are any)? Are they wheelchair accessible without assistance? Can persons with physical disabilities mark and cast ballots in private, without assistance? If only some polling stations are accessible, how does this impact on the participation of persons with disabilities?	Election analyst
27	Is voting information available in accessible formats, including in easy-to-read and large print formats? If so, does this sufficiently cover voting instructions?	Election analyst

Assistive Tools

Assistive tools support voters with disabilities in being able to independently mark their ballots without the need for assistance. This allows for equal participation and provides for secrecy of the vote. The effective use of assistive tools requires that they are available at a polling station, that voters know about them, that staff are trained in how they are used, that voters are able to use them effectively.

Good practice examples in the OSCE region

- Mandatory legal measures were introduced in one OSCE participating State requiring a Braille ballot guide and at least one voting booth to be accessible in each polling station.
- A pilot project was conducted in one municipality where each polling station had one ballot guide that persons with visual disabilities could use to vote without assistance, even if they did not know Braille.
- After reviewing international best practices and discussing with organizations working on issues related to visually impaired persons, the Central Election Commission of one OSCE participating State established a standard ballot paper for the elections, and also prepared a special form for persons with visual impairments that would enable them to fill in ballot papers. In addition, two magnifying lenses were available at every polling station, as well as tactile ballot frames.

Assistive Tools – from *Equal Access: How to Include Persons with Disabilities in Elections and Political Processes*, 2014, International Foundation for Election Systems (IFES) and the National Democratic Institute (NDI)

“There are several types of assistive tools that can make the electoral process more accessible... Tactile ballot guides are folders in which the ballot can be placed, and use Braille or tactile symbols to identify the candidates, helping to ensure the secrecy of the vote for persons who are blind... Holes in the folder line up with the boxes on the ballot so voters can read the Braille/symbols and mark the ballot in the same manner as voters not using the guide. Some EMBs have developed Braille ballots, but guides are a better solution for two reasons. First, there will often just be a few voters per ballot box that make use of the Braille ballot, so it will be easy to determine how those who used the Braille ballot voted. However, if a voter uses the guide, their ballot will look like all other ballots, thus guaranteeing the secrecy of the vote. Second, tactile ballot guides are usually a less expensive option. EMBs only need to provide a few guides for each polling center, whereas providing Braille ballots requires more logistics to ensure there are enough Braille ballots at each station...

Lowered voting booths that are accessible to wheelchair users help to ensure the secrecy of the vote. Tactile stickers or box tops indicate which ballot goes into which box for voters who are blind when they deposit ballots into more than one box on Election Day. Magnifying glasses, portable lighting and large grip pens are tools that can assist voters with and without disabilities.”

#	Questions	Lead observation mission expert
28	Are assistive tools available to facilitate voting by persons with disabilities in polling stations (for example, tactile ballot guides, Braille ballot guides or magnifying glasses)? If so, do staff know how to use them? Do voters know about them and how to use them? Are they effective?	Election analyst

Assistance from a Person of Choice

A further issue to consider is whether voters can receive assistance from a person of their choice, as is specified in CRPD article 29, or if assistance is instead provided by someone else, such as a polling official (which may compromise the secrecy of the vote and result in misconduct on some occasions). The 2014 FRA report found that “In 15 EU Member States... assistance in voting is available to persons with physical, visual and intellectual disabilities, subject to the authorisation of the election authorities. Such legislation often requires, however, that an electoral officer be present in the voting booth with the voter and the assistant, which can raise concerns regarding the secrecy of voting for persons requiring assistance.”

#	Questions	Lead observation mission expert
29	Are there legal provisions for assistance in voting from a person of choice? If so, does an election officer also have to be present?	Legal analyst
30	In practice, is assistance in voting given by a person of choice? Do provisions appear to be respected? Is secrecy of the vote ensured?	Election analyst

Alternative Voting Mechanisms

It should be possible for persons with disabilities to cast their ballots in the same way as any other voter. If voting is taking place in polling stations, conditions should be ensured for persons with disabilities to vote in person in the polling station. In some cases, it may not be possible to access a polling station, in which case alternative voting mechanisms (AVMs) may be used, such as mobile, electronic or postal voting. However, as was noted by the OHCHR in 2011 “Alternative ways of voting should be used only in cases where it is not possible, or it is extremely difficult, for persons with disabilities to vote in polling stations like everyone else... General reliance on voting assistance and alternative voting as a way to ensure the political participation of persons with disabilities would not be consistent with the general obligations undertaken by States Parties under articles 4 and 29 of the Convention [the CRPD].”⁶⁰

60 Paragraphs 58 and 74, Thematic Study of the UN High Commissioner for Human Rights on Participation in Political and Public Life by Persons with Disabilities, 2011. Available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-36_en.pdf.

AVMs have inherent limitations with regard to secrecy and integrity. Generally, there is less control and reduced scrutiny with AVMs, resulting in more opportunity for secrecy to be compromised. This risks intimidation and pressure being used to manipulate how people are voting. Thus, if the legislation permits AVMs, it is necessary to look at the safeguards and if there is confidence in the measures among disabled persons and among electoral stakeholders in general.⁶¹

The CRPD strongly emphasizes the right to live in the community, with article 19 stating that States Parties “recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community”. However, some persons may continue to live in institutions, and it is thus important to look at provisions made to allow such residents to vote, particularly if they are not able to leave the premises. There can also be secrecy issues with on-site voting arrangements that observers need to check.

#	Questions	Lead observation mission expert
31	Are there legal provisions for alternative ways of voting (such as by mobile voting, e-voting or postal ballots)? If so are safeguards stipulated?	Legal analyst
32	If there are provisions for alternative ways of voting (such as by mobile voting or postal ballots), how effective are they in practice for persons with disabilities? Do they provide for secrecy of the ballot? Are there sufficient safeguards? What do DPOs say about such provisions? What do other electoral stakeholders say about such provisions? What practical provisions are made for persons in long-term institutions?	Election analyst

C. The Post-Election Day Period

After election day, an ODIHR election observation mission can look at the availability of information on results, access to complaints and appeals, and how citizen observers have addressed disability inclusion. Outcome indicators should also be considered about the numbers and proportions of persons with disabilities participating in various different capacities in the electoral process.

Results Information

For persons with disabilities to know the election outcome and be able to check the totals announced, winning candidates/parties and tabulation data need to be made available in accessible formats. Paragraph 7.4 of the OSCE Copenhagen Document commits states to make official results public. General Comment 34 of the UN Human Rights Committee notes that “States Parties should proactively put in the public domain Government information of

61 Examples of safeguards include defined eligibility criteria, an application process that requires a nomination in writing signed by the registrant, records of applications and transparency measures.

public interest.”⁶² For this to be accessible to persons with different disabilities, a range of formats are needed. It is important that such data are made available in real time, i.e., allowing time for complaints and appeals to be prepared and lodged.

#	Questions	Lead observation mission expert
33	Are election results data available in multiple formats, including in easy-to-read, audio, Braille or large print formats, and with sign language interpretation? If so, is this available in real time, leaving enough time for the lodging of complaints and appeals?	Election analyst

Complaints and Appeals

In any election process, it is necessary to be able to make complaints and appeals in order to access remedy and to promote improved policies and practices that enhance compliance with human rights obligations.⁶³ This is important throughout the election cycle, but particularly important in the post-election phase. Article 13 of the CRPD emphasizes equal access to justice. However, this has been difficult to ensure in practice. As discussed above, a person deprived of legal capacity may be excluded from making a complaint, instead having to go through someone else, such as a guardian. Furthermore, the inaccessibility and cost of making complaints and appeals can disproportionately impact on persons with disabilities. There can be a lack of information in accessible formats and a lack of understanding of disability rights. It can be especially difficult for persons who feel that they have been victims of disability discrimination to be able to seek legal redress.

CRPD, article 13 - Access to Justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

62 <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

63 ICCPR article 2.3 states “3. Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy”.

#	Questions	Lead observation mission expert
34	Is information on complaints and appeals mechanisms available in multiple formats? Is such information available locally as well as nationally? Do election officials and complaint-hearing bodies receive awareness training on the electoral participation of persons with disabilities?	Legal analyst
35	Are there obstacles in practice for persons with disabilities to complaints and appeals mechanisms? Have complaints and appeals been made through the election administration and judicial system? Have complaints been made to other non-judicial institutions (such as human rights institutions, equality bodies and ombudsperson offices)? What are the specific issues raised by persons with disabilities?	Legal analyst

Good practice example in the OSCE region

- With the support of IFES, a local NGO conducted a long-term election observation mission focused on the participation of persons with disabilities, with LTOs who monitored over 300 political events, and STOs who covered over 500 polling centres. The mission made 37 recommendations to improve the effectiveness of the electoral administration, political entities, the complaints and appeals system, and civil society.

Citizen Observation

The importance of election observation is emphasized in the authoritative interpretation of ICCPR article 25. General Comment 25 of the Human Rights Committee states “There should be independent scrutiny of the voting and counting process.”⁶⁴ Citizen observer groups endorsing the Declaration of Global Principles for Nonpartisan Election Observation and Monitoring by Citizen Organizations have made commitments related to disability. Endorsing organizations “pledge to include findings and recommendations in their reports concerning the participation in election processes of... other traditionally underrepresented portions of the population, such as, those with disabilities... as well as concerning steps taken by authorities, electoral contestants and other actors to encourage full participation of such groups and/or to remove barriers to their participation”.⁶⁵

64 ICCPR General Comment 25, paragraph 20.

65 Available at <http://www.gndem.org/declaration-of-global-principles>.

#	Questions	Lead observation mission expert
36	Are citizen observer groups helping promote full participation in the electoral process by persons with disabilities? Do citizen observer groups gather data and report on disability inclusion? Have citizen observer groups advocated for disability inclusion? Do citizen observer groups have policies on the inclusion of persons with disabilities within their organizations?	Election analyst

Outcome Indicators

These indicators look at the extent to which persons with disabilities are actually participating, as elected representatives, candidates, voters and in election administrations. If persons with disabilities are under-represented, there is a greater onus on the state to undertake further measures to support participation. As discussed above, it can be difficult to obtain these data.

From the information available, most countries indicate very low levels of persons with disabilities in national parliaments. The CRPD Committee's reports also express concern over the under-representation of persons with disabilities as candidates in elections and in executive and public bodies.

#	Questions	Lead observation mission expert
37	How many persons with disabilities were there in the outgoing parliament and how many have been elected to the incoming parliament? What proportion are women? Are official sources providing these data?	Political analyst
38	How many persons with disabilities ran as candidates? What proportion are women? Are official sources providing these data? Do unofficial sources concur?	Political analyst
39	How many persons were registered as having disabilities in the voter list? Are these data disaggregated by gender? Are there data on how many actually voted? Are official sources providing these data? Do unofficial sources concur? What are the views of DPOs on the proportion of registered voters with disabilities?	Election analyst
40	How many persons with disabilities are working in the election administration? What proportion of these are women? Do persons with disabilities also have senior roles within the election administration?	Election analyst



Chapter 4: The Work of ODIHR Missions and Observers

The electoral participation of persons with disabilities is an evolving area of law and practice. Monitoring of CRPD obligations can help facilitate CRPD commitments becoming realities, thereby improving the inclusivity of elections and governments. Assessing the fulfilment of commitments related to the electoral participation of persons with disabilities requires an examination of available laws, policies, data and information on the actual conduct of elections.

It can often be difficult to gather data on what really happens in practice. Disability organizations and citizen observers have a particular role to play in collecting and analysing such information. Citizen observers are well positioned to comprehensively gather information on the different stages of the electoral process, collecting data from across a country.

ODIHR election-related activities are more limited in the resources they have available and, therefore, focus on the key issues relevant for the fulfilment of obligations and commitments related to disability. The core teams analyse the legislation, policies and actions at the central level. Election observation missions (EOMs) have long-term observers (LTOs) and short-term observers (STOs), who can gather on-the-ground data about the realities of participation from across a country. Missions then report on key findings, identifying where there is compliance and where there are shortcomings. Missions consider the rights

of persons with disabilities in balance with all the other electoral rights that must be upheld as stipulated in OSCE commitments and other international obligations and standards. ODIHR is committed to supporting the involvement and inclusion of persons with disabilities in its election observation activities. ODIHR seeks to give maximum participation opportunities within the confines of missions that are typically only a few months in duration, and the need to uphold the organization's duty of care to all national and international staff, who at times work in insecure and challenging conditions.

A. Needs Assessment Missions (NAMs)

Typically, ODIHR deploys a needs assessment mission (NAM) to a participating State between four and six months in advance of election day. The NAM assesses the pre-election environment and recommends whether observation is advisable and, if so, what type is most suitable. All NAM reports are made public in the ODIHR section of the OSCE website.

NAMs - action points:

- Prior to a NAM, the responsible ODIHR election adviser will check whether the country has ratified/acceded to the CRPD and if it has made any reservations or declarations. Country reporting to the CRPD treaty Committee, alternative and shadow reports, and the concluding observations of the Committee can be checked for references to electoral participation. The NAM can also check whether there is a national strategy or action plan that includes reference to the political participation of persons with disabilities.
- During the NAM, the team will check with the election administration about measures undertaken to provide access for persons with disabilities.
- During the NAM, the team will meet with one or more disability organizations to ask about their views on the priority issues affecting persons with disabilities in the electoral process.
- During the NAM, the team will check with political parties as to whether they are taking any internal measures to promote the participation of persons with disabilities, and whether there is any policy for persons with disabilities in candidate selection.

B. Election-Related Activities

The actions described below are for election observation missions (EOMs) and limited election observation missions (LEOMs), but may also be applied to election assessment missions (EAMs) and election expert teams (EETs), according to the needs identified and the focus and resources of the mission.

Under the supervision of the Deputy Head of Mission (DHoM), one of the members of the core team is appointed as the focal point for disability inclusion. He or she has responsibility to raise awareness of the CRPD and this handbook, promote co-ordination, meet with disability organizations, and promote disability inclusion being covered across the different sections of published reports. All core team analysts are expected to analyze disability inclusion within their respective areas of assessment, as detailed below. Some issues

require the input of several core team colleagues, with the legal analyst, for example, providing information on the legal framework and the election analyst looking at what happens in practice.

Two good general sources of country-specific information are: Election Access (www.electionaccess.org/en/), and DOTCOM for EU-related countries (www.disability-europe.net/dotcom).

EOMs - action points:⁶⁶

- The DHoM, in discussion with core team members, appoints a focal point for disability inclusion.
- The focal point for disability inclusion ensures the handbook is circulated and that core team experts understand their respective responsibilities. The focal point also leads on meeting with disability organizations.
- The focal point makes sure that LTOs and STOs are briefed on disability inclusion.
- The focal point and DHoM prepare executive summary paragraphs and review the input of other core team colleagues' reporting on disability inclusion.

C. Long-Term Observers (LTOs)

LTOs are the regional members of EOMs and LEOMs, gathering information on what is happening on the ground throughout the country before election day, on election day and afterwards. They also support STOs (in EOMs) in their work in the field. LTOs, therefore, play a critical role in helping the mission know what is the *de facto* situation in terms of the respect, protection and fulfilment of the electoral rights of persons with disabilities in the regions.

Through the LTO co-ordinator, core team experts will ask LTOs to gather information about what is happening locally with regard to the participation of persons with disabilities in the electoral process. They will be briefed on this by the core team upon their arrival in the country. LTOs will typically look at the following issues.

- **Has the local election administration undertaken consultations with DPOs?** Do the views of DPOs appear to have been incorporated, if not why?
- **Does the election administration provide information locally according to accessibility standards in multiple formats?** Does it cover voter education? Does it provide information on accessible electoral facilities? Does it cover general electoral updates (e.g., press releases)? Does the election administration counter any prevailing stereotypes, by showing persons with disabilities participating electorally?
- **Are local media available in multiple formats?** Does this cover voter education and campaign information? Do the local media counter any prevailing stereotypes by showing persons with disabilities participating electorally? Is this publicly or privately funded?

66 Specific questions for core team members are mentioned in the sections above, as well as in Annex A.

- **Is the voter registration process burdensome for persons with different kinds of disabilities, thereby risking reduced access?** Are the requirements for obtaining identification burdensome? Do persons with disabilities have to register their disability in any way and, if so, is the system effective?
- **Is the candidate nomination process burdensome for persons with different kinds of disabilities (thereby risking reduced access)?** Is any additional support available for persons with disabilities to run as candidates?
- **Do political parties/candidates provide information in accessible formats to persons with various types of disabilities?** If so, do all parties do this or just some? Does this cover the main campaign issues and/or information about the parties?
- **Are campaign events disability-friendly? How is physical access? Are there multiple formats of presentation (for example sign language, easy-to-read format or subtitles)?** Are venues wheelchair accessible without assistance? Is any extra support given to candidates with disabilities? Is there any discussion of disability inclusion?
- **Are buildings used by electoral authorities and for voting accessible to persons with various types of disabilities?** Do they meet the legal standards of the country (if there are any)? If only some polling stations are accessible, how does this impact on the participation of persons with disabilities?
- **Is the election administration providing effective training on disability inclusion?** Does this emphasize the rights of persons with disabilities? Does this explain key issues such as accessibility of services, assistance from a person of choice, and information availability?
- **If there are provisions for alternative ways of voting (such as by mobile voting or postal ballot), how effective are they seen to be at the local level?** Do they provide for secrecy of the ballot? Are there sufficient safeguards? What do DPOs say locally about such provisions? What do other local electoral stakeholders say about such provisions? What practical provisions are made for persons in local long-term institutions?
- **Are election result data available in multiple formats, including in easy-to-read, Braille, large print, or with sign language interpretation?** If so, is this available in real time, leaving enough time for the lodging of complaints and appeals?
- **Do local complaints and appeals mechanisms provide information according to accessibility standards in multiple formats?**
- **Are local complaints and appeals mechanisms de facto accessible to persons with disabilities?** What disability rights have been raised?
- **Are citizen observer groups gathering data on disability inclusion locally?**

D. Short-Term Observers (STOs) and Election Day Observation

This section looks at issues STOs and other EOM members will look at on election day. STOs are deployed for election day. Deployed across the country, they provide ground-level information on voting, counting and results' tabulation processes. Like LTOs, but with a

narrower focus, STOs have a critical role in helping the mission know what is the *de facto* situation in terms of the respect, protection and fulfilment of the electoral rights of persons with disabilities on election day. STOs will be briefed on this by the core team after their arrival in country.

ODIHR observers have limited time in each polling station (typically staying approximately 30 minutes) and multiple points to check. Therefore, the observers will concentrate on issues identified below, although these may vary depending on the country's legal framework and administrative arrangements. Typical questions and guidelines for STO forms used in polling stations (PSs) and tabulation centres can include the following:⁶⁷

#	EOM election day form question	EOM guidelines to corresponding questions
1	Is information at the PS available in multiple formats for persons with various kinds of disabilities? (Yes/No)	Multiple formats of information make the process accessible to persons with various types of disabilities. Making information accessible can include easy-to-read materials, large print versions, Braille and audio-visual materials (including with sign language).
2	Is the PS physically accessible to persons with physical disabilities? Is the layout of the PS suitable for voters with disabilities? (Yes/No)	This involves seeing if the polling station is accessible to someone with physical disabilities so that she or he can mark and cast her or his ballot in secret and with dignity, without particular help. For example, needing help to lift a wheelchair up some steps would mean that the building is not accessible. This also involves checking that someone in a wheelchair can mark and cast her or his ballot in secret without assistance, for example by having a voting booth that is low enough for someone in a wheelchair to use, and similarly for the ballot box.
3	Are assistive tools available to help persons with sensory disabilities? (Yes/No)	These allow persons with sensory disabilities to vote in secret. They include tactile ballot guides, Braille ballot guides and magnifying glasses. Try to see these and to find out if they work, as well as if, in practice, people know how to use them and find them helpful.
4	Can a voter with disabilities choose who will assist them? (Yes/No/Do not know)	Is the voter's choice of who will assist respected? Does any polling official also join (thereby compromising secrecy of the ballot)?

67 ODIHR methodology for data collection on election day involves standardized forms for observers to complete that are quantitatively based, as well as qualitative reporting by LTOs.

E. Public Reporting and Recommendations

ODIHR EOMs, LEOMs, EAMs and EETs report on a large number of issues relevant to an election. Thus, a mission has to summarize and prioritize in order to cover the overall situation regarding the participation of persons with disabilities in the electoral process, and to be clear about key strengths and shortcomings. Given the limited number of recommendations a mission makes, there are unlikely to be more than a few recommendations related to disability inclusion. The mission, therefore, needs to prioritize according to the specific situation in a country. During the process of developing conclusions and recommendations related to disability, it is important to have discussions with DPOs, to give the mission a maximum understanding of the issues, and to test priorities and recommendations. Key points relating to disability inclusion should be included in the preliminary statement of findings and conclusions (for EOMS and LEOMs), which is presented on the day after the election. The most comprehensive coverage of disability rights will be in the final report. Disability rights should be referred to in the executive summary of reports where possible, and certainly in the final report. This should include an overall conclusion, and then reporting and recommendations on persons with disabilities should be mainstreamed throughout the various sections of the entire text.

If a country has signed but not ratified the CRPD, the convention may still be referred to, as the country has expressed its interest in being bound by the treaty and its actions should not go against the treaty. If a country has not signed or acceded to the treaty, CRPD principles may be referred to, as the extent of global ratification means that the treaty has a normative value, while recognizing that the country itself is not bound by or committed to the treaty. In such cases, the mission should recommend CRPD ratification, in line with OSCE commitments.⁶⁸

The more the framework and language used in mission reporting is consistent with those of the CRPD, the clearer the reporting will be, and the more usable it is to the Committee on the Rights of Persons with Disabilities. The same is the case for recommendations, which should avoid being general and, instead, make specific points that are implementable and measurable. Examples of recommendations could include referring to the removal of all restrictions on voting and candidacy rights, including those based on individualized court decisions on mental incapacity, in line with the CRPD, or that legal provisions be made for assistance from a person of choice, also in line with the CRPD.

As always, missions should not make recommendations that are overly-prescriptive, given that states have a margin of appreciation about what measures they employ to provide for the fulfillment of treaty and political commitments. Missions should also:

- Not recommend that restrictions on the suffrage rights of persons with mental or intellectual disabilities be decided by courts on an individualized case-by-case basis. Instead, missions should promote the standards of the CRPD, by recommending no restrictions on suffrage rights based on mental or intellectual disabilities.

68 In line with paragraph 13.2 of the 1989 OSCE Vienna Document.

- Not prioritize alternative ways of voting (such as by mobile voting, postal ballots and proxy voting), but should instead emphasize mainstreaming participation by persons with disabilities through universal design. The focus, where possible, should be on improving the accessibility of existing polling stations rather than making alternative arrangements, as these have inherent secrecy and integrity issues.

F. Follow-up

OSCE participating States committed themselves in the 1999 OSCE Istanbul Document “to follow-up promptly ODIHR’s election assessments and recommendations”. Since then, follow-up of electoral recommendations has become increasingly important to OSCE participating States, as well as to the work of ODIHR in supporting states in their efforts to further improve their electoral processes.⁶⁹

ODIHR offers to return to a country in which it has observed and formally present its final report. If requested by the participating State, ODIHR can undertake follow-up activities. These can include legal reviews, assistance with legal expertise on drafting legislation, in-depth assessments of specific electoral components, technical advice, support to CSOs, mid-term review visits, and facilitation and co-ordination.

ODIHR promotes political pluralism and the participation of under-represented groups in follow-up processes as a means to encourage equal opportunities for electoral participation. Thus, ODIHR seeks to consult with and involve DPOs in its own follow-up activities, and encourages participating States to similarly involve DPOs.

Follow-up - action points:

- ODIHR team to meet with DPOs during the visit to present the final report, and to include DPOs in roundtable discussions.
- Where possible, ODIHR team to include disability inclusion and recommendations in discussions on the final report.
- Promote DPOs being involved in follow-up activities and election reform.
- Offer assistance to OSCE participating States on promotion of persons with disabilities in the electoral processes, including through review of the electoral legislation and practices for compliance with the CRPD.

69 For more information, see the ODIHR *Handbook on the Follow-up of Electoral Recommendations*, 2016. Available at <http://www.osce.org/odihr/elections/119893>.

Good practice example in the OSCE region

In one of the OSCE participating States, the Ombudsperson's office established a working group to consider issues pertaining to the electoral participation of persons with disabilities. This working group included representatives of DPOs and other civil society organizations in conducting a study of whether the accessibility of polling stations was ensured, as required by law. The conclusions of the study, including recommendations for improvements, were presented by the working group to a broad range of electoral stakeholders at a public post-election event and distributed to government institutions by the Ombudsperson. The working group continued its activities during subsequent elections, to evaluate progress made and the extent to which its previous recommendations had been implemented.

Annex A – Questions for Individual Core Team Members

Legal Analyst

#	Questions	Possible Sources
1	Has the state ratified or acceded to the CRPD and, if so, has it made any reservations or declarations relevant to electoral participation (in particular articles 29, 9 and 12)? Has the state ratified or acceded to the Optional Protocol to the CRPD? Has the state ratified or acceded to other relevant conventions? Were there changes to the national legislation after the ratification, and did those changes comply with the state's obligations?	CRPD and optional protocol ratification status, UN Treaty Collection website ⁷⁰
2	Has the state reported to the Committee on the Rights of Persons with Disabilities on electoral participation issues? Were shadow or alternative reports submitted? What were the concluding observations of the Committee related to the electoral participation of persons with disabilities? Has the state reported to other treaty monitoring bodies on issues related to the electoral participation of persons with disabilities, for example the UN Human Rights Council or the Committee on the Elimination of Discrimination against Women (CEDAW)?	Committee on the Rights of Persons with Disabilities (website) ⁷¹ Committees of other treaty bodies (websites)
3	Is there a national strategy or action plan on disability that includes the right to political participation? Is there a mechanism for reviewing implementation, and is the process consultative? Is there public reporting?	Responsible ministry DPOs
4	Are there general legal standards regarding accessibility of information? Do legal standards on accessibility also apply to the election administration, political parties and civil society organizations? Are there legal standards on accessibility for public and private providers of Internet-based public information? Are there legal standards on accessibility for public and private audio-visual media?	Legislation National strategy or action plan Responsible ministry
5	Are there general legal standards on accessibility for buildings, and infrastructure in general? Do these cover the election administration, political parties and civil society? Are there mandatory standards on accessibility for national and local authority buildings?	Legislation National strategy or action plan Responsible ministry

70 See: <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=_en>.

71 See: <<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>>.

6	Are explicit legal provisions in place concerning the electoral participation of persons with disabilities? Are there any explicit legal provisions on non-discrimination related to the electoral participation of persons with disabilities? Have inadequate universal design and denial of reasonable accommodation been defined as forms of discrimination in national legislation?	Non-discrimination and accessibility laws The Constitution Election legislation
7	Are there legal requirements that electoral data be disaggregated by various types of disabilities and gender? For example on voters, candidates and those elected. Are any such data required to be made public? Are there data-protection provisions and, if so, how are they interpreted in relation with the CRPD obligations?	Legislation
9	Are there legal requirements for consultation with and the active involvement of DPOs with regards to elections? Is the election administration required to consult at the national and/or local level? Are there any requirements for publicly funded media to consult with DPOs on the transmission of electoral information?	Legislation
10	Have DPOs been consulted in any legislative reform initiatives? Do the views of DPOs appear to have been incorporated? If not, what was the justification (if any)?	Parliament DPOs
13	Are there any legislative restrictions on electoral participation (as a candidate or voter) linked to legal capacity? If there are restrictions, is an individual court decision required on capacity with respect to the right to vote? Where legislation does not foresee the deprivation of legal capacity, are there any support mechanisms for persons with disabilities to exercise their right to vote?	Legislation
14	Are complaints and appeals mechanisms legally available to persons restricted from voting for reasons of legal capacity? Is it also possible to make complaints to non-judicial institutions (such as human rights institutions, equality bodies etc.)?	Legislation Non-judicial institutions
15	If there are any legislative restrictions on electoral participation based on legal capacity, are any official statistics available on the number of persons affected? Are there reports of the misuse of legal capacity restrictions?	Official statistics DPOs
25	Are there any legal provisions that electoral processes be made accessible by taking all reasonable measures? Are there legal accessibility standards for polling stations? Do these standards address different kinds of disabilities? Are there legal provisions for voting by persons in long-term institutions?	Legislation National strategy or action plan
29	Are there legal provisions for assistance in voting from a person of choice? If so, does an election officer also have to be present?	Legislation Election management body (EMB)

31	Are there legal provisions for alternative ways of voting (such as by mobile voting, e-voting or postal ballots)? If so are safeguards stipulated?	Legislation EMB
34	Is information on complaints and appeals mechanisms available in multiple formats? Is such information available locally as well as nationally? Do election officials and complaint-hearing bodies receive awareness training on the electoral participation of persons with disabilities?	EMB Courts/tribunals Non-judicial institutions LTO/STO findings DPOs
35	Are there obstacles in practice for persons with disabilities to complaints and appeals mechanisms? Have complaints and appeals been made through the election administration and judicial system? Have complaints been made to other non-judicial institutions (such as human rights institutions, equality bodies and ombudsperson offices)? What are the specific issues raised by persons with disabilities?	Courts/tribunals Non-judicial institutions LTO/STO findings DPOs Citizen observer groups

Election Analyst

#	Questions	Possible Sources
8	Are there legal requirements that electoral data be disaggregated by various types of disabilities and gender? For example on voters, candidates and those elected. Are any such data required to be made public? Are there data-protection provisions and, if so, how are they interpreted in relation with the CRPD obligations?	EMB DPOs
11	Has the election administration undertaken consultations with DPOs and, if not, why? Do the views of DPOs appear to have been incorporated? Has this been at national and local levels? Does the election administration have a policy on disability? Does the election administration have a focal point for disability inclusion?	EMB DPOs LTO/STO findings
16	Does the election administration provide information according to accessibility standards and in multiple formats, including in easy-to-read and large-print format materials, Braille ballot guides, and with sign language interpretation? Is such information available locally as well as nationally? Does it cover voter education? Does it provide information on accessible electoral facilities? Does it cover general electoral updates (e.g., press releases, announcements, data)? What are the views of DPOs about the information provision?	EMB DPOs LTO/STO findings Citizen observer groups

18	Is the voter registration process burdensome for persons with different kinds of disabilities, thereby risking reduced access? Are there obstacles to obtaining identification, thereby risking reduced access? Are there any special measures for persons with disabilities to register to vote?	Legislation EMB regulations DPOs LTO/STO findings Citizen observer groups
19	Is the candidate nomination process burdensome for persons with different kinds of disabilities (thereby risking reduced access)? Is any additional support available for persons with disabilities to register as candidates?	Legislation EMB regulations DPOs LTO/STO findings Citizen observer groups
20	Is the election administration undertaking effective training on disability inclusion? Does this emphasize the rights of persons with disabilities? Does this explain key issues, such as accessibility of services, assistance from a person of choice, and information availability? Does the election administration have a training and voter education programme for DPOs?	EMB DPOs LTO/STO findings Citizen observer groups
26	Are buildings used by electoral authorities and for voting accessible to persons with various types of disabilities? Do they meet the legal standards of the country (if there are any)? Are they wheelchair accessible without assistance? Can persons with physical disabilities mark and cast ballots in private, without assistance? If only some polling stations are accessible, how does this impact on the participation of persons with disabilities?	EMB DPOs LTO/STO findings Citizen observer groups
27	Is voting information available in accessible formats, including in easy-to-read and large print formats? If so, does this sufficiently cover voting instructions?	EMB DPOs STOs Citizen observer groups
28	Are assistive tools available to facilitate voting by persons with disabilities in polling stations (for example, tactile ballot guides, Braille ballot guides or magnifying glasses)? If so, do staff know how to use them? Do voters know about them and how to use them? Are they effective?	EMB DPOs LTO/STO findings Citizen observer groups

30	<p>In practice, is assistance in voting given by a person of choice? Do provisions appear to be respected? Is secrecy of the vote ensured?</p>	<p>EMB regulations DPOs LTO/STO findings Citizen observer groups</p>
32	<p>If there are provisions for alternative ways of voting (such as by mobile voting or postal ballots), how effective are they in practice for persons with disabilities? Do they provide for secrecy of the ballot? Are there sufficient safeguards? What do DPOs say about such provisions? What do other electoral stakeholders say about such provisions? What practical provisions are made for persons in long-term institutions?</p>	<p>EMB regulations DPOs LTO/STO findings Citizen observer groups</p>
33	<p>Are election results data available in multiple formats, including in easy-to-read, audio, Braille or large print formats, and with sign language interpretation? If so, is this available in real time, leaving enough time for the lodging of complaints and appeals?</p>	<p>EMB DPOs LTO/STO findings Citizen observer groups</p>
36	<p>Are citizen observer groups helping promote full participation in the electoral process by persons with disabilities? Do citizen observer groups gather data and report on disability inclusion? Have citizen observer groups advocated for disability inclusion? Do citizen observer groups have policies on the inclusion of persons with disabilities within their organizations?</p>	<p>Citizen observer groups DPOs LTO/STO findings</p>
39	<p>How many persons were registered as having disabilities in the voter list? Are these data disaggregated by gender? Are there data on how many actually voted? Are official sources providing these data? Do unofficial sources concur? What are the views of DPOs on the proportion of registered voters with disabilities?</p>	<p>EMB DPOs</p>
40	<p>How many persons with disabilities are working in the election administration? What proportion of these are women? Do persons with disabilities also have senior roles within the election administration?</p>	<p>EMB</p>

Political Analyst

#	Questions	Possible Sources
21	Do political parties/candidates provide information in formats accessible to persons with various types of disabilities? If so, do all parties do this or just some? Does this cover the main campaign issues and/or information about the parties and candidates?	Political parties / candidates DPOs LTO/STO findings Citizen observer groups
22	Is any extra support given to candidates with disabilities? Are additional funds provided to cover costs for campaigning? Are campaign events disability-inclusive? Are venues physically accessible? Are there multiple formats of presentation (for example sign language, subtitles or easy-to-read format materials)? Is there any discussion of disability inclusion?	Political parties / candidates DPOs LTO/STO findings Citizen observer groups
23	Do political parties/candidates have policies on promoting the rights of persons with disabilities and/or participation of persons with disabilities in the party and as candidates? Do they have data on persons with disabilities within the party? Do they have anything on disability inclusion in their manifestos? Do political parties receive state-provided financial support to increase the participation of persons with disabilities in their structures?	Political parties / candidates DPOs Citizen observer groups
37	How many persons with disabilities were there in the outgoing parliament and how many have been elected to the incoming parliament? What proportion are women? Are official sources providing these data?	Official statistics Parliament EMB DPOs
38	How many persons with disabilities ran as candidates? What proportion are women? Are official sources providing these data? Do unofficial sources concur?	EMB DPOs

Media Analyst

#	Questions	Possible Sources
12	Have publicly funded media undertaken consultations with DPOs regarding the accessibility of campaign coverage and electoral information? Do the views of DPOs appear to have been incorporated?	Publicly funded media DPOs

17	<p>Do the publicly funded media provide election-related information according to accessibility standards in multiple formats? If so, does this cover voter education and campaign information? Do candidates with disabilities have access to the media equal to that of other candidates? What are the views of DPOs about the provision of information by publicly funded media? What about private media outlets?</p>	<p>EOM media-monitoring DPOs Publicly funded media Private media</p>
24	<p>Do publicly funded media have any policies or practices on promoting the participation of candidates with disabilities or the discussion of disability inclusion in the campaign process? Do public media provide campaign information in multiple accessible formats? Do any private media have such policies or practices? Is reporting presented from a rights-based perspective?</p>	<p>EOM media-monitoring DPOs Publicly funded media Private media</p>

Annex B – OSCE Commitments and Other International Obligations and Standards

The OSCE Moscow Document, 1991

41. The participating States decide
- 1 - to ensure protection of the human rights of persons with disabilities;
 - 2 - to take steps to ensure the equal opportunity of such persons to participate fully in the life of their society;
 - 3 - to promote the appropriate participation of such persons in decision-making in fields concerning them;
 - 4 - to encourage services and training of social workers for the vocational and social rehabilitation of persons with disabilities;
 - 5 - to encourage favourable conditions for the access of persons with disabilities to public buildings and services, housing, transport, and cultural and recreational activities.

The International Covenant on Civil and Political Rights (ICCPR), 1966

2.1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

25. Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:
- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
 - (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
 - (c) To have access, on general terms of equality, to public service in his country.

The Convention on the Rights of Persons with Disabilities (CRPD), 2008

Article 2 - Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille ballot guide, tactile communication, large print, accessible multimedia as well as written, audio, plain-language,

human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non-spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“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 specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 4- General Obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

- (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
- (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities; ...
- (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention; ...
- (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
- (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
- (h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;

- (i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in this Convention so as to better provide the assistance and services guaranteed by those rights.

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

Article 5 – Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.
2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.
3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 6 – Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 8 – Awareness raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:
 - (a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;
 - (b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;
 - (c) To promote awareness of the capabilities and contributions of persons with disabilities.
2. Measures to this end include:
 - (a) Initiating and maintaining effective public awareness campaigns designed:
 - (i) To nurture receptiveness to the rights of persons with disabilities;
 - (ii) To promote positive perceptions and greater social awareness towards persons with disabilities;
 - (iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

- (b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
- (c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;
- (d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

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. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- (a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- (b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

- (a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- (b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- (c) Provide training for stakeholders on accessibility issues facing persons with disabilities;
- (d) Provide in buildings and other facilities open to the public signage in Braille and in easy-to-read and understand forms;
- (e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- (f) Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- (g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- (h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 12 - Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

Article 13 - Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

Article 19 – Living independently and being included in the community

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 29 – Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) 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 elected, inter alia, by:
 - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

- (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Article 31 - Statistics and Data Collection

“1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

- (a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;
- (b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties’ obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.”

The Sustainable Development Goals

On a political level, the Sustainable Development Goals, adopted by heads of state and governments at a UN Summit in September 2015, include reference to disability.⁷² With regards to reducing inequality, the Sustainable Development Goals committed states to, “By 2030, empower and promote the social, economic and political inclusion of all, irrespective of... disability...” With regards to promoting peace, justice and strong institutions, one indicator is the proportion of positions in public institutions held by persons with disabilities compared to the proportion of the national population.

The Venice Commission Revised Interpretative Declaration, 2011

*Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections*⁷³

⁷² (A/RES/70/1). SDGs are formally known as “Transforming our world: the 2030 Agenda for Sustainable Development”.

⁷³ Available at [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)045-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)045-e).

I. THE CODE OF GOOD PRACTICE IN ELECTORAL MATTERS, as adopted by the European Commission for Democracy through Law (Venice Commission) in October 2002, states that “the five principles underlying Europe’s electoral heritage *are universal, equal, free, secret and direct suffrage*” (item I). The Code further states in item I.1.1 that “Universal suffrage means in principle that all human beings have the right to vote and to stand for elections”.

1. People with disabilities should therefore 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. The participation of all citizens in political and public life and the democratic process is essential for the development of democratic societies.

II. THE FOLLOWING COMPLETES THE PRINCIPLES STATED IN THE CODE

1. Universal suffrage

2. Universal suffrage is a fundamental principle of the European Electoral Heritage. People with disabilities may not be discriminated against in this regard, in conformity with Article 29 of the Convention of the United Nations on the Rights of Persons with Disabilities⁷⁴ and the case law of the European Court of Human Rights.⁷⁵

3. Voting procedures and facilities should be accessible to people with disabilities so that they are able to exercise their democratic rights, and allow, where necessary, the provision of assistance in voting, with respect to the principle that voting must be individual (the Code, item I.4.b).

4. The application of Universal Design principles⁷⁶ and direct and/or indirect participation of the user in all design stages are effective means for improving the accessibility of polling stations and election procedures to cast one’s vote and for getting access to information on elections.

2. Equal suffrage

5. The principle of “equality of opportunity must be guaranteed for parties and candidates alike” (The Code, item I.2.3.a). The application of this principle should be extended to include equality of opportunity for people with disabilities who stand for elections.

3. Free suffrage

6. In the duty to “enable voters to know the lists and candidates standing for elections” (The Code, item I.3.1.b.ii), the public authorities must ensure that the above information is available and accessible, to the greatest extent possible and taking due account of the principle

⁷⁴ The Convention on the Rights of Persons with Disabilities was adopted on 13 December 2006 by the United Nations in New York.

⁷⁵ European Court of Human Rights, case of Kiss v. Hungary, application No. 38832/06, judgment 20 May 2010. See in particular par. 43-44, with a reference to Article 29 of the UN Convention.

⁷⁶ Recommendation CM/Rec(2009)8 of the Committee of Ministers to Member States on achieving full participation through Universal Design: Universal Design is a strategy that aims to make the design and composition of different environments, products, communication, information technology and services accessible and understandable to, as well as usable by, everyone, to the greatest extent in the most independent and natural manner possible, preferably without the need for adaptation or specialized solutions. The terms “design for all”, “integral accessibility”, “accessible design”, “inclusive design”, “barrier-free design”, “transgenerational design” and “accessibility for all” are regarded as converging towards the term “Universal Design” used in this text.

of reasonable accommodation,⁷⁷ in all necessary alternative formats under restriction of commensurability, legal regulation and realistic feasibility. The information provided shall be easy-to-read and to understand.

4. Secret suffrage

7. The right of people with disabilities to vote by secret ballot should be protected, inter alia, by “guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing them to use assistance technologies and/or to be assisted in voting by a person of their own choice⁷⁸” in conditions which ensure that the chosen person does not exercise undue influence.

77 Article 2 - Definitions of the United Nations Convention on the Rights of Persons with Disabilities; “reasonable accommodation” means necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, to ensure to persons with disabilities the enjoyment of human rights and fundamental freedoms on an equal basis with others.

78 (Article 29 (iii) of the United Nations Convention on the Rights of Persons with Disabilities; cf. item II.2 above, and the Code, item I.4.b).

Annex C – Useful Resources

The websites in this annex are divided into:

1. Legal and policy documents
2. Research
3. Resource sites and materials
4. Related organizations

1. Legal and Policy Documents

A Human Rights Based Approach to Data, Leaving No One Behind in the 2030 Development Agenda, Office of the High Commissioner for Human Rights, 2016.

<http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf>

Convention on the Rights of Persons with Disabilities

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>

Committee on the Rights of Persons with Disabilities

<http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

Council of Europe Strategy on the Rights of Persons with Disabilities for 2017-2023

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806fe7d4>

Resolution 2155(2017) of the Parliamentary Assembly of the Council of Europe on The Political Rights of Persons with Disabilities: a Democratic Issue, and report of the Parliamentary Assembly's Committee on Equality and Non-Discrimination (Doc. 14268), 2017.

<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=23491&lang=EN>

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.

https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805b150c

EU European Disability Strategy 2010-2020.

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0636&from=en>

EU Directive on the Accessibility of Websites and Mobile Applications of Public Sector Bodies (Web Directive).

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32016L2102>

European Parliament resolution, Sign Languages and Professional Sign Language Interpreters, 23 November 2016 (2016/2952[RSP]).

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0442+0+DOC+XML+Vo//EN>.

Human Rights Indicators, a Guide to Measurement and Implementation, Office of the High Commissioner for Human Rights, 2012.

http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf

Monitoring the Convention on the Rights of Persons with Disabilities, Guidance for Human Rights Monitors, Professional training series No.17, OHCHR, 2010.

http://www.ohchr.org/Documents/Publications/Disabilities_training_17EN.pdf

OAS Committee for the Elimination of All forms of Discrimination against Persons with Disabilities

http://www.oas.org/en/sedi/ddse/pages/index-4_committee.asp

Report of the Special Rapporteur on the Rights of Persons with Disabilities, 2016. UN Human Rights Council.

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A_HRC_31_62_E.doc&action=default&DefaultItemOpen=1

Submissions to the thematic study by the Office of the United Nations High Commissioner for Human Rights on participation in political and public life by persons with disabilities, the High Commissioner for Human Rights, 2011.

<http://www.ohchr.org/EN/Issues/Disability/Pages/StudyPoliticalAndPublicLife.aspx>

Thematic Study of the UN High Commissioner for Human Rights on Participation in Political and Public Life by Persons with Disabilities, 2011.

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-36_en.pdf

Venice Commission Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections, 2011

[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2011\)045-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2011)045-e)

World Wide Web Consortium's guidelines on web accessibility

<http://www.w3.org/TR/WCAG20/>

2. Research

Hate Crimes Against People with Disabilities, Hate Crime Reporting, OSCE/ODIHR, 2016.
<http://www.osce.org/odihr/290021>

Promoting Equality and Non-Discrimination for Persons with Disabilities, Council of Europe, 2017. <https://edoc.coe.int/en/people-with-disabilities/7279-pdf-promoting-equality-and-non-discrimination-for-persons-with-disabilities.html>

Study on the Equal Recognition before the Law, Council of Europe, 2017.
<https://edoc.coe.int/en/people-with-disabilities/7277-pdf-a-study-on-the-equal-recognition-before-the-law-contribution-towards-the-council-of-europe-strategy-on-the-rights-of-persons-with-disabilities.html>

The Political Participation of Disabled People in Europe: Rights, Accessibility and Activism, Priestley, Stickings, Loja, Grammenos, Lawson, Waddington, and Fridriksdottir, 2016. *Electoral Studies* 42 (2016) 1-9, Elsevier.

The Right to Political Participation of Persons with Disabilities, European Union Agency for Fundamental Rights, 2014.
<http://fra.europa.eu/en/publication/2014/indicators-right-political-participation-people-disabilities>

World Disability Report, 2011
http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf?ua=1

3. Resource Sites and Materials

ACE, the Electoral Knowledge Network, Focus on Elections and Disability
<http://aceproject.org/ace-en/focus/disability/about>

DOTCOM: the Disability online tool of the European Commission
<http://www.disability-europe.net/dotcom>

Election Access, managed by the International Foundation for Electoral Systems (IFES).
<http://www.electionaccess.org/en/>

Equal Access: How to Include Persons with Disabilities in Elections and Political Processes, IFES and the National Democratic Institute (NDI) 2014.
http://www.ifes.org/~media/Files/Publications/Books/2014/Equal%20Access_How%20to%20include%20persons%20with%20disabilities%20in%20elections%20and%20political%20processes.pdf

4. Related Organizations

AGENDA – General Election Network for Disability Access

<http://www2.agendaasia.org/index.php/homepage>

Disability Council International

<http://disabilitycouncilinternational.org>

European Disability Forum

<http://www.edf-feph.org>

Inclusion Europe

<http://inclusion-europe.eu>

International Disability Alliance

<http://www.internationaldisabilityalliance.org>

Mental Disability Advocacy Centre

<http://mdac.info/en>

Annex D – Definitions of Key Terms

This is based on the definition of terms in *Equal Access: How to Include Persons with Disabilities in Elections and Political Processes*, IFES and NDI 2014.⁷⁹

Term	Definition	Example(s)
Accessible	A site, facility, work environment, service or programme that is easy to approach, enter, operate, participate in and/or use safely, independently and with dignity by persons with disabilities.	A polling station where a voter with physical disabilities can maneuver unaided.
Accessible formats	Print, audio or visual information that is accessible to persons with disabilities.	Braille, tactile, large print, sign language and easy-to-read formats.
Assistive tool	A device that aids in the completion of a task or other function that might otherwise be difficult or impossible.	Tactile ballot guide or magnifying glass.
Braille	A writing system comprised of raised dots used by persons who are blind or have low vision.	
Braille or Tactile ballot guide	Folders in which the ballot can be placed and use Braille or tactile symbols to identify the candidates/parties.	
Disabled people's organization	A civil society organization that is run by and for persons with disabilities.	
Easy-to-read	Text where the content, language, illustrations and graphic layout are simplified for ease of use by persons with intellectual disabilities and/or non-native speakers of a language.	Inclusion Europe's recommendations for accessible elections in Europe. ⁸⁰

79 *Equal Access: How to Include Persons with Disabilities in Elections and Political Processes*, IFES and NDI 2014. Available at http://www.ifes.org/~media/Files/Publications/Books/2014/Equal%20Access_How%20to%20include%20persons%20with%20disabilities%20in%20elections%20and%20political%20processes.pdf.

80 Inclusion Europe, "Recommendations for Accessible Elections in Europe," European Union, <http://inclusion-europe.eu/wp-content/uploads/2015/04/Good_Practices_EN.pdf>.

Inclusion	The process whereby persons with disabilities are involved in all electoral activities on an equal basis with other citizens, including leadership positions, rather than just having accommodations that might segregate persons with disabilities from other citizens.	Rather than only having a mobile ballot box and ballot to brought to a voter's home, the polling center should also be accessible so the voter can vote in the same location as other citizens, if he or she so desires.
Intellectual disability or learning disability	Term used when there are limits to a person's ability to learn at an expected level and function in daily life.	Down syndrome or autism.
Mainstreaming	The process whereby persons with disabilities are integrated as equal participants and leaders in assistance programmes and society	Developing a public service announcement that includes actors with disabilities in the television spot.
Psychosocial disability or mental health problems	Conditions that affect cognition, emotion and behavior.	Depression or schizophrenia.
Reasonable accommodation	The provision of materials or environment that allow a person with disabilities to participate and contribute on an equal basis with others. Reasonable accommodation takes a more individualized approach than universal design.	A tactile ballot guide is a reasonable accommodation because it gives voters who are blind or have low vision the same opportunity to vote in secret and without assistance.
Sensory impairment/disability	Encompasses visual loss (including blindness and partial loss of sight), hearing loss (including of all degrees) and multisensory impairment (which means having a diagnosed visual and hearing impairment, with at least a mild loss in each modality).	Sight or hearing loss.
Tactile format	Raised symbols that can be used in contexts where persons are not fluent in Braille.	
Umbrella group	A disabled people's organization that is comprised of member organizations that focus on a specific type of disability or group of persons with disabilities.	
Universal design	Where all buildings, materials and processes are designed from their inception to be accessible for both persons with and without disabilities.	A voting booth designed to be accessible for everyone.

