



CAHDPH-TF(2016)5 rev 1

1 April 2016

CAHDPH Taskforce  
on preparing  
the Council of Europe Disability Strategy

Disability: from rights to reality

Council of Europe Disability Strategy 2017-2023

Working document

prepared by the Secretariat<sup>1</sup>

Draft Version 1.2

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<sup>1</sup> This draft takes into account the views expressed by the members of the Task Force at their meetings in December 2015 and in March 2016. It also reflects comments from internal Council of Europe consultations.

## Contents

1.	The Council of Europe and disabilities .....	3
1.1.	Introduction.....	3
1.2.	Council of Europe and Rights of Persons with Disabilities .....	3
1.3.	Policy framework: Council of Europe Disability Action Plan 2006-2015 .....	4
1.4.	Evaluation of the implementation of the Action Plan 2006-2015.....	4
1.5.	Preparation of the new Strategy .....	5
1.6.	Risk management .....	6
2.	Cross cutting themes.....	6
2.1.	Participation and co-operation in the implementation of the UNCRPD .....	6
2.2.	Reasonable accommodation and universal design .....	7
2.3.	Gender equality perspective .....	7
2.4.	Multiple discrimination .....	7
2.4.	Education and training .....	8
3.	Priority areas .....	8
3.1.	Equality and non-discrimination .....	8
3.2.	Awareness raising.....	10
3.3.	Accessibility .....	11
3.4.	Equal recognition before the law .....	13
3.5.	Freedom from exploitation, violence and abuse.....	14
4.	Working methods.....	16
4.1.	Institutional setting .....	16
4.2.	Partnerships .....	16
4.3.	Communication .....	17
4.4.	Implementation and follow up.....	18
	ANNEX 1 .....	19
	ANNEX 2 .....	19



# 1. The Council of Europe and disabilities

## 1.1. Introduction

1. The Council of Europe protects and promotes human rights, which includes the rights of persons with disabilities. This document sets out the priority areas of the Council of Europe in this area for the period 2017 to 2023. It also gives guidance and inspiration to member States on activities, measures and policies they can undertake to ensure implementation of priorities at national and local levels.
2. Persons with disabilities are entitled to have access and enjoy the full range of human rights which are safeguarded by the European Convention on Human Rights, the European Social Charter and most importantly the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD<sup>2</sup>) as well as all other international human rights instruments. These include civil, political, economic, social and cultural rights.
3. This Strategy seeks to encompass all these categories of human rights and sets out the Council of Europe's and its member States' commitment to make them a reality for *all* persons with disabilities. This includes children and young people with disabilities, wherever they are placed and without discrimination, in line with the Council of Europe Strategy for the Rights of the Child 2016-2021<sup>3</sup> and the UN Convention on the Rights of the Child<sup>4</sup>.
4. In constantly changing societies new challenges emerge requiring attention and action from decision makers, service providers, family members, persons with disabilities and their organisations and the population in general. By way of example, in the context of refugees and asylum seekers, special attention needs to be paid and targeted action taken with regard to the rights of persons with disabilities.
5. Equally important is the full and effective participation in the work of the Council of Europe, not just of persons with disabilities and their organisations, as stipulated in the UNCRPD, but also full participation and contribution of civil society in general, National Human Rights Institutions, Equality Bodies and Ombudsman Institutions and their regional and international networks.

## 1.2. Council of Europe and Rights of Persons with Disabilities

5. The European Convention on Human Rights<sup>5</sup>, adopted in 1950, and its Protocols provide the foundations for all the Council of Europe work to protect and promote human rights, including the rights of persons with disabilities. The European Court of Human Rights has enshrined these rights in its case law and plays an important role by prompting states to undertake legislative changes to safeguard human rights of persons with disabilities.
6. The European Social Charter<sup>6</sup>, adopted in 1961 and revised in 1996, contains specific rights for persons with disabilities, in particular Article 15 (right of persons with disabilities to independence, social integration and participation in the life of the community) and Article E

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<sup>2</sup> UN Convention on the Rights of Persons with Disabilities

<sup>3</sup> Council of Europe Strategy for the Rights of the Child 2016-2021

<sup>4</sup> UN Convention on the Rights of the Child

<sup>5</sup> European Convention on Human Rights

<sup>6</sup> European Social Charter

(providing that the rights of the Charter shall be secured without discrimination on any ground).

7. In 1992, the Committee of Ministers adopted Recommendation No. R (92)6 on a coherent policy for people with disabilities<sup>7</sup>.
8. At the second European conference of ministers responsible for integration policies for people with disabilities (Malaga, Spain, 2003), the Council of Europe adopted the ministerial declaration on people with disabilities "*Progressing towards full participation as citizens*"<sup>8</sup>. The first Council of Europe Disability Action Plan (DAP) was adopted upon the request of the Committee of Ministers as a follow up to the Malaga conference.
9. In January 2003, the Council of Europe Parliamentary Assembly adopted Recommendation 1592 (2003) "*Progressing towards full social inclusion of people with disabilities*"<sup>9</sup>.
10. A timeline of key Council of Europe activities and a full list of Recommendations and Resolutions on disability related issues can be found in Annexes 1 and 2 of this Strategy.

### 1.3. Policy framework: Council of Europe Disability Action Plan 2006-2015

9. In April 2006, the Committee of Ministers adopted Recommendation Rec(2006)5 "*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*"<sup>10</sup>. The Recommendation included in its appendix the *Council of Europe Action Plan (DAP)*<sup>11</sup>.
10. In December 2006 the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was adopted. It entered into force in May 2008.
11. Both the UN Convention and the Council of Europe DAP marked the '*paradigm shift*' from the traditional medical-based approach to disability to one based on human rights. Persons with disabilities as fully-fledged citizens is the underlying principle of this approach which is best summarised by the fundamental principles shared by both texts: independence, freedom of choice, full participation, equality and human dignity.

### 1.4. Evaluation of the implementation of the Action Plan 2006-2015

12. In 2014-2015, the Council of Europe carried out an evaluation of the implementation of the Council of Europe DAP in all of its 47 member States. The evaluation process, also encouraged by Parliamentary Assembly in its Recommendation 2064 (2015)<sup>12</sup> built on and benefitted from the wide knowledge, experience and expertise of disability rights by various stakeholders: national experts from public administrations and academia, civil society organisations working with and for persons with disabilities, persons with disabilities themselves as well as service providers.

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<sup>7</sup> Recommendation No. R (92)6 on a coherent policy for people with disabilities

<sup>8</sup> Malaga Declaration

<sup>9</sup> Recommendation 1592 (2003) "Progressing towards full social inclusion of people with disabilities"

<sup>10</sup> Recommendation Rec(2006)5

<sup>11</sup> Council of Europe Disability Action Plan 2006-2015

<sup>12</sup> PACE Recommendation 2064 (2015) "Equality and inclusion for people with disabilities"

13. The evaluation document<sup>13</sup> comprised an analysis of developments in the national legislation, policies, action plans, as well as specific and targeted actions at both the national and European levels in the area of protecting and promoting human rights of persons with disabilities. It highlighted achievements, in particular with regard to legislation, service delivery, the physical environment and attitudes towards persons with disabilities.
14. The evaluation also underlined that discrimination and barriers to participation persist and that there are significant challenges in ensuring compliance with international standards to combat discrimination and to achieve the full respect of all human rights of persons with disabilities. It pointed out that the disparity between the standards and practice, referred to as the implementation gap, needs to be addressed as a matter of priority.
15. The report emphasised the need and importance of continued commitment of governments, including funding, the full involvement of organisations of and for persons with disabilities, and other relevant stakeholders, sharing of know-how and exchanging of promising practices to ensure that Europe becomes a democratic, welcoming home for all, and upholds its values of democracy, respect for human rights and diversity.

#### 1.5. Preparation of the new Strategy

16. The overall goal of the Council of Europe Strategy on the Rights of Persons with Disabilities (the Strategy) is to ensure equal opportunities and independence of persons with disabilities and to guarantee their freedom of choice, full citizenship and active participation in society.
17. Five rights based priority areas for action were identified in addition to cross-cutting issues that need to be considered in all the Council of Europe work and activities. Both the priority areas and cross-cutting issues aspire to guide and support the work and activities carried out in the member States both at national and local levels.
18. The priority areas are anchored in the UNCRPD, the European Convention on Human Rights and other Council of Europe standards protecting the rights of persons with disabilities. They are general in nature and each of them is connected to relevant Articles of the UNCRPD.
19. The priority areas are:
  - 1) Equality and non-discrimination
  - 2) Awareness raising
  - 3) Accessibility
  - 4) Equal Recognition before the law
  - 5) Freedom from exploitation, violence and abuse
20. The interpretation and implementation of these priority areas will be done in line with the UNCRPD, the evolving body of decisions, guidelines and General Comments of the UNCRPD Committee, and the case law of the European Court of Human Rights. Additionally, the developing international standards on social responsibility, including corporate social responsibility, and the UN Sustainable Development Goals (SDGs) are part of the tools to improve the inclusion of persons with disabilities in the society.

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<sup>13</sup>Abridged evaluation report of the Council of Europe Disability Strategy 2006-2015

21. The beneficiaries of the Strategy are persons with disabilities living in the 47 Council of Europe member States. The governments of member States drive the implementation of the Strategy at the national and local levels in close co-operation with all relevant stakeholders. These include National Human Rights Institutions, Ombudsman Institutions, Equality and Anti-discrimination Bodies and civil society, and in particular, organisations of and for Persons with Disabilities. All these stakeholders were involved in the broad and open consultations during the preparation of the Strategy document.

## 1.6. Risk management

Insufficient financial and human resources, lack of political commitment and a continuously changing societal environment are general risk factors that apply to all priority areas. These undermine respect for the human rights and fundamental freedoms of persons with disabilities.

22. In the Strategy, each priority area has a risk analysis table attached to it. The table states the overall expected impact or ultimate goal at beneficiary level. It has a non-exhaustive selection of risk factors that could negatively affect the achievement of outcomes at the level of the member States and the other stakeholders as well as possible mitigating actions to counter such risks, both by the Council of Europe and the member States.
23. In addition to the activities undertaken at national and local levels by the member States and other stakeholders, a bi-annual work plan with a selection of actions and activities to be undertaken by the Council of Europe, in cooperation with the member States, will be drafted (see section 4.4. *Implementation and follow up*).

## 2. Cross cutting themes

### Participation and co-operation in the implementation of the UNCRPD

24. In 2008 the UN Convention (UNCRPD) and its optional Protocol on individual complaint mechanism came into force. To date, most of the Council of Europe member States have ratified the UNCRPD and its optional Protocol making it a widely accepted legally-binding instrument. An independent monitoring body, the UN Committee on the Rights of Persons with Disabilities, examines its implementation in the member States on the basis of government reports and individual complaints. It also gives general comments for the future development of disability policies or interpretation of the UNCRPD.
25. Article 32 of the UNCRPD requires international co-operation in support of the national implementation of the Convention, also in partnership with relevant international and regional organisations. It is therefore important that the Council of Europe and the UN align their work and activities in this field, building on the added value of each organisation, to ensure the implementation of the UNCRPD and Council of Europe standards at the national and local levels.
26. Therefore, all Council of Europe work on disability related issues needs to pay particular attention to synergies, co-operation and coordination. This includes, *inter alia*, co-operation, as formulated in and assigned under Article 33 of the UNCRPD nationally, with national focal points, coordination mechanisms and independent monitoring frameworks (such as Ombudsman Institutions or National Human Rights Institutions (NHRIs) etc.) but

also civil society, organisations of and for persons with disabilities, service providers, specialised agencies, media, private sector, academia as well as independent experts.

## 2.2. Reasonable accommodation and universal design

27. Persons with disabilities are not a group of persons with one set of needs, but each person has individual needs and individual set of barriers preventing the full realisation of and equal access to rights on an equal basis with others. Additionally, there are persons with multiple disabilities and complex needs that risk higher level of exclusion.
28. Practice and research show that intelligent and not necessarily costly solutions to accessibility challenges can be found through the application of the Universal Design principle and the reasonable accommodation concept, as defined in the UNCRPD (Article 2). These should be promoted and taken into consideration in all work within the Council of Europe and at the national and local levels, including in the work of independent monitoring mechanisms, where applicable. This is to be done in addition to promotion and development of affordable assistive technologies and devices, where and as needed.

## 2.3. Gender equality perspective

29. Gender equality means an equal visibility, empowerment and participation of all genders in all spheres of public and private life.
30. Women and girls with disabilities often face additional barriers and higher levels of discrimination in their access to rights and activities in comparison to men. Women and girls with disabilities are also often at greater risk of all forms of violence, both within and outside the home. In order to mitigate these barriers, a gender equality perspective needs to be employed in all work and activities within the Council of Europe and at the national and local levels, including in the work of independent monitoring mechanisms, where applicable. The integration of a gender equality perspective requires that gender equality concerns are included in the planning, budgeting, implementation, monitoring and evaluation of all policies, programmes and activities. It also requires using gender-disaggregated data and ensuring the equal participation of women and men in all programmes and activities.

## 2.4. Multiple discrimination

31. Many persons with disabilities are at risk of multiple discrimination and intersecting forms of discrimination due to their specific situations (financial or educational status, living arrangement, level of assistance needed, type of disability or combination of multiple disabilities etc.) or personal qualities (age, gender<sup>14</sup>, sexual orientation or gender identity<sup>15</sup>, language, ethnicity, nationality or lack of it, culture, religion etc.).
32. To tackle multiple discrimination and its harmful effects, including to the development of children and young people, it is important to acknowledge it exists and take it into consideration in all work and activities within the Council of Europe and at the national and local levels, including the work of independent monitoring mechanisms, where applicable.

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<sup>14</sup> Council of Europe Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms, Explanatory Memorandum, Section 12, paragraphs 181-182.

<sup>15</sup> Council of Europe Recommendation (2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity and Parliamentary Assembly of the Council of Europe's Resolution 2048/2015 on the discrimination of transgender people

## 2.4. Education and training

33. Education, including human rights education, is a prerequisite for persons with disabilities to enjoy human rights on an equal basis with others. This includes education of and for everyone about disability and persons with disabilities, their rights, qualities and needs. This also includes inclusive and equal education and full participation of persons with disabilities at all levels of the educational system. The use of reasonable accommodation, including personal assistance, and universal design as well as various modes, means and formats of accessible communication, including sign languages and braille, need to be promoted in the field of education.
34. Human rights education and disability related training of all professionals engaged in any sphere, whether it is social work, health care, including sexual and reproductive health<sup>16</sup>, education, justice or law enforcement, culture or tourism, etc. is essential to guarantee that persons with disabilities are delivered high quality services that comply with international standards. Training of staff is necessary not only to ensure they have the requisite skills and knowledge, but also to support them in fulfilling their duties in an equal and inclusive way.
35. Education and training, including human rights education, should be taken into consideration in all work within the Council of Europe and at the national and local levels, including the work of independent monitoring mechanisms, where applicable.

## 3. Priority areas

### Equality and non-discrimination

36. Equality is a core element of all human rights and fundamental freedoms. It is guaranteed to everyone in the European Convention on Human Rights, the European Social Charter, the UNCRPD (Article 5) and other regional and international human rights treaties and related documents. The work on equality and non-discrimination includes focus on gender equality (UNCRPD, Article 6) and on the rights of children with disabilities (UNCRPD, Article 7).
37. However, unequal treatment and discrimination on the basis of disability in its many forms are preventing the full and equal realisation of all human rights and fundamental freedoms for persons with disabilities.
38. Council of Europe bodies, member States and other relevant actors should seek to:
  - ❖ Mainstream equality and non-discrimination as well as information about rights of persons with disabilities in all areas of work of the Council of Europe and at the national and local levels.
  - ❖ Encourage various independent Council of Europe monitoring mechanisms to integrate equality and non-discrimination of persons with disabilities and their equal access to human rights into their monitoring work, when applicable, and make recommendations in this regard.

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<sup>16</sup> Council of Europe Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms, Explanatory Memorandum, Section 12, paragraphs 133-135.

- ❖ Promote equality and non-discrimination of persons with disabilities, in particular through inclusive education system for all and the development of training and communication initiatives targeting a broad range of professionals, including civil servants and service providers.
- ❖ Identify, collect and disseminate existing remedies and good practices aiming at facilitating access of person with disabilities to legal protection in cases of discrimination.

Risk analysis		
EQUALITY AND NON-DISCRIMINATION		
➔ Persons with disabilities are treated equally with others and without discrimination in the society		
Risks	Mitigating actions	Outcomes
<ul style="list-style-type: none"> <li>- Council of Europe entities, including independent monitoring bodies and national or local authorities take insufficient steps, if any, to mainstream equality, including gender equality, and non-discrimination in their work.</li> </ul>	<ul style="list-style-type: none"> <li>- Awareness raising, information campaigns and joint discussions for Council of Europe staff, independent monitoring bodies and national and local authorities on equality and non-discrimination in general and in specific on persons with disabilities.</li> </ul>	<ul style="list-style-type: none"> <li>- Discrimination on the basis of disability is made illegal in all the Council of Europe member States.</li> <li>- Multiple and intersecting forms of discrimination of persons with disabilities are acknowledged and relevant action is taken.</li> <li>- The rights of PWDs are taken into consideration, including in the work of the independent monitoring bodies, and implemented without discrimination and on an equal basis with others.</li> </ul>
<ul style="list-style-type: none"> <li>- The education and health care systems and labour market fail to engage and include PWDs or there is insufficient level of assistance and reasonable accommodation available.</li> </ul>	<ul style="list-style-type: none"> <li>- Awareness raising and information campaigns to educators, health care professionals and educational and professional training authorities on the importance of inclusion and on the various needs for assistance in inclusive education systems or labour market.</li> </ul>	<ul style="list-style-type: none"> <li>- Increasing amount of educational institutions and places of employment include persons with disabilities and create assistance schemes, whenever is needed.</li> <li>- All professional training include awareness on disabilities and persons with disabilities.</li> </ul>
<ul style="list-style-type: none"> <li>- Lack of accessible and effective means of legal protection and assistance in cases of discrimination on the basis of disabilities and in relation to multiple discrimination.</li> </ul>	<ul style="list-style-type: none"> <li>- Dissemination of good practices on access to legal protection and improved co-operation between various institutions (CLARITY).</li> </ul>	<ul style="list-style-type: none"> <li>- Persons with disabilities receive information and assistance in various accessible means, modes and formats, including sign language and braille on the legal remedies against discrimination on the basis of disability and in relation to multiple discrimination.</li> </ul>

### 3.2. Awareness raising

39. Awareness raising is a specific state obligation under the UNCRPD (Article 8). Persons with disabilities are still confronted with unacceptable attitudes and stereotypes based on existing prejudices, fear and distrust in their abilities. Action should be aimed at changing these negative attitudes and stereotypes towards persons with disabilities through effective awareness raising strategies, actions and policies involving all relevant stakeholders.
40. Discriminatory behaviour, stigmatisation and its damaging or harmful consequences on persons with disabilities must be countered by accessible and objective information on disabilities and the impact of disability on individuals and society in order to promote a better understanding of the needs and fulfilment of rights of persons with disabilities in society and their inclusion in all areas of life.
41. Council of Europe bodies, member States and other relevant actors should seek to:
- ❖ Undertake public awareness initiatives and human rights based training programmes on the equal rights, positive perception and capabilities of persons with disabilities in all areas of life, especially with regard to education and labour market, taking into account a diversity and gender equality perspective.
  - ❖ Develop information campaigns to change legislation and combat negative attitudes, stereotypes and practices to make discrimination of persons with disabilities both illegal and unacceptable. These information campaigns will also be relayed to national parliaments and local and regional authorities and to the Parliamentary Assembly and the Congress of Local and Regional Authorities.
  - ❖ Ensure close co-operation with the representative organisations of persons with disabilities, the National Human Rights Institutions, Equality Bodies and Ombudsman Institutions and their respective networks and other relevant actors to benefit from their experience and expertise with regard to human rights and lived experience of persons with disabilities.
  - ❖ Promote respect, equality, capabilities and increased active participation, involvement and inclusion of persons with disabilities in the media, entertainment and cultural life as both active actors and users.
  - ❖ Identify, collect and disseminate good practices with regard to awareness raising.

Risk analysis		
AWARENESS RAISING		
➔ Public awareness on and visibility of disabilities and persons with disabilities is improved in society in general and in medias in specific.		
Risks	Mitigating actions	Outcomes
- Stereotypes and discrimination prevail and are further reinforced by "hate speech" towards	- Awareness raising and media campaigns on the skills and capabilities of persons with disabilities.	- Persons with disabilities have equal access to all aspects of society.

persons with disabilities.	<ul style="list-style-type: none"> <li>- Human rights training programmes for persons with disabilities, their family members and persons working with them.</li> </ul>	<ul style="list-style-type: none"> <li>- Persons with disabilities, their family members and persons working with them are aware of and respect the human rights, human value and dignity of persons with disabilities.</li> </ul>
<ul style="list-style-type: none"> <li>- Lack of media coverage, negative stereotypes and negative portrayal of disability related issues or persons with disabilities. Sensational reporting.</li> </ul>	<ul style="list-style-type: none"> <li>- Awareness raising training on disability aimed at representatives of the media.</li> <li>- Partnerships with media (both traditional and new media)</li> <li>- Disability awareness award for an effective campaign.</li> </ul>	<ul style="list-style-type: none"> <li>- Persons with disabilities are included in the media as active actors and users, including being aware of dangers on the internet.</li> </ul>
<ul style="list-style-type: none"> <li>- Lack of knowledge of prevalence of disabilities in society.</li> </ul>	<ul style="list-style-type: none"> <li>- Dissemination of good practices on improving statistics with regard types and frequency of disabilities and persons with disabilities.</li> </ul>	<ul style="list-style-type: none"> <li>- Accurate and age- and sex-disaggregated statistical data is available on the disabilities and persons with disabilities.</li> </ul>

### 3.3. Accessibility

42. Accessibility, as defined in UNCRPD (Article 9) is a precondition for persons with disabilities to be able to exercise their rights actively, participate and contribute fully and equally in the society, be independent and make choices about all aspects of their lives.
43. Accessibility is often viewed narrowly as accessibility to the built environment. However, it is a much wider concept that is connected to most of the Articles of the UNCRPD. It needs to be seen from the perspective of equality and non-discrimination. It applies equally to public and private sector. Accessibility can, in other words, be seen as an enabler for persons with disabilities in all areas of life.
44. Access to information, as defined in the UNCRPD (Article 21) and the definitions of communication and language (Article 2) are important components of accessibility. Differences in individuals' capabilities to receive and impart information and to utilise information and communications technologies represent a knowledge divide that creates inequality. Access can bridge the knowledge divide as a means to foster media and information literacy, inclusion and participation<sup>17</sup> and eventually enables access to other rights. Rights cannot be exercised without information about them and access to them.
45. The fast changing and continuously on-going developments in the information technology and communication sectors are re-shaping the way in which people interact with each other, conduct business, access goods, services and information and communicate in general. It is important that all persons benefit from technological advancements and that no-one is excluded, including persons with multiple disabilities and complex needs.

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<sup>17</sup> [UN General Assembly Resolution from 16 December 2015, entitled "Outcome document of the high-level meeting of the General Assembly on the overall review of the implementation of the outcomes of the World Summit on the Information Society", paragraph 23.](#)

46. Currently, information and communication continue to be largely inaccessible for many persons with disabilities and therefore attention needs to be paid to appropriate and alternative communication modes, means and formats.
47. Council of Europe bodies, member States and other relevant actors should seek to:
- ❖ Promote accessibility and universal design in general, in addition to assistive devices and with regard to access to goods, services and information to make the services of governments, private entities, media and providers of information via internet accessible to persons with disabilities.
  - ❖ Promote the use of accessible and user friendly means, modes and formats of communication, including sign languages braille and easy to read text, in all communications, media releases and internet services of the Council of Europe and at the national and local levels, including in parliaments and local and regional authorities.
  - ❖ Encourage the various independent Council of Europe monitoring mechanisms to take into consideration in their monitoring work, activities and publications the use of accessible and user friendly means, modes and formats of communication, including sign languages, braille and easy to read text, when and as applicable.
  - ❖ Promote debate on quality access to information and communications for persons with disabilities, including media and information literacy and inclusion and participation in shaping public policies on the information society.
  - ❖ Promote information and protection measures for persons with disabilities against the harmful side effects of new information and communication technologies (ICT), especially with regard to children and young people with disabilities, in accessible means, modes and formats of communication.
  - ❖ Support efforts to collect adequately age and sex-disaggregated data and targeted statistics to enable states to formulate and develop policies and tools to improve access to rights by persons with disabilities.
  - ❖ Identify, collect and disseminate existing good practices on accessibility, and in particular on access to information.

Risk analysis		
ACCESSIBILITY		
<p>➔ Persons with disabilities can fully participate independently to all aspects of society on an equal basis with others and are able to receive and impart information and participate in medias with the support of accessible ways of communication, including by using sign languages and braille.</p>		
Risks	Mitigating actions	Outcomes
- Persons with disabilities face barriers to fully participate in society in general and experience obstacles	- Dissemination of good and affordable practices and solutions on accessibility are promoted.	- Universal design is used as a standard for all new developments, including on the internet and media and

accessing information in specific due to inaccessible environments.		reasonable accommodation is promoted.  - Sign languages and braille are legally recognised, their use is promoted in all member States as well as in the Organisation and the practices are monitored by relevant Council of Europe monitoring mechanisms.
- Lack of availability and high price of technological solutions	- Dissemination of information on new affordable innovations in the technological area.	- Information and training are available in member States in accessible means, modes and formats of communication and technical assistance devices are available either for free or at low cost for persons with disabilities.

### 3.4. Equal recognition before the law

48. Equal recognition before the law, as defined among others by the UNCRPD (Article 12)<sup>18</sup> refers to the two parts of legal capacity, the capacity to hold rights and duties and the capacity to act and exercise those rights and duties. Legal capacity is essential to real participation and inclusion of persons with disabilities in society and its denial to any individual means negation of both the right to personhood and to the capacity to act.
49. Control over one's life and all its aspects is a fundamental requirement for the full enjoyment of all human rights. Legal capacity continues to be denied to a large part of the population who are deprived of their legal capacity on the basis of an intellectual or psychosocial disability. Substituted decision-making, including full guardianship regimes where persons are stripped of their personhood in the eyes of the law and the society, are still the norm in many member States. These practices have been confirmed as a violation of basic human rights and fundamental freedoms by the decisions of the European Court of Human Rights (ECtHR), which has called on the relevant authorities to remedy such violations.
50. The ultimate aim of the UNCRPD is to abolish all substituted decision-making and replace it by supported decision-making. Prejudice and structural discrimination in societies and by policy-makers are main obstacles to the necessary transformation.
51. Council of Europe bodies, member States and other relevant actors should seek to:
- ❖ Support member States in their efforts to improve their legislation, policies and practices with regard to legal capacity of persons with disabilities.
  - ❖ Identify, collect and disseminate existing good practices on supported decision-making structures and practices that persons with disabilities have available for being able to exercise their legal capacity and have access to rights.

<sup>18</sup> UNCRPD Committee General Comment no. 1 (2014)

- ❖ Identify, collect and disseminate existing national legislation, policies and practices providing for appropriate and effective safeguards to limitations to legal capacity in accordance with international human rights law, including assistance and support mechanisms available in engaging those safeguards.
- ❖ Identify, collect and disseminate existing remedies and good practices aiming at facilitating access of person with disabilities to legal protection, including out-of-court and quasi-legal stages of protection in all areas of life (*inter alia* through National Human Rights Institutions, Equality Bodies, Ombudsman offices etc.);

Risk analysis		
EQUAL RECOGNITION BEFORE THE LAW		
➔ Persons with disabilities enjoy legal capacity and substituted decision-making is replaced by supported decision-making in all Council of Europe member States		
Risks	Mitigating actions	Outcomes
- Persistence of stereotypes and stigma; prevalence/ domination of the long tradition of “protecting” persons with disabilities by using substituted decision-making.	- Awareness raising on the importance of legal capacity and supported decision-making options.  - Peer-to-peer exchange of good practice and promising policies on supported decision-making;	- Persons with disabilities retain their legal capacity and substituted decision-making is replaced by effective, accessible and affordable supported decision-making in all member States.
- Complicated safeguard systems and lack of effective assistance systems.	- Dissemination of information on accessible, effective and affordable assistance systems.	- Accessible, effective and affordable support, assistance structures, information and effective safeguards are available for persons with disabilities to enable access to legal capacity and legal protection according to their needs.

### 3.5. Freedom from exploitation, violence and abuse

52. Compared to the general population, persons with disabilities, particularly young or old persons or persons with complex needs, persons living in institutional arrangements and persons at risk of multiple and intersecting types of discrimination, face a higher risk of violence and abuse of various types (physical, sexual, financial or psychological).
53. Women and girls with disability, in particular, are exposed to a high risk of gender-based violence, the structural nature of which has been recognised by the Council of Europe Convention on preventing and combating violence against women and domestic violence (*the Istanbul Convention*)<sup>19</sup>.
54. Hate crime and bullying, especially on internet, are also forms of exploitation, violence and abuse that affect especially children and young people with disabilities.

<sup>19</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence

55. The difficulty in combating exploitation, violence and abuse is that it often goes under-reported. Victims do not want or do not know how and where to report the violence, family members do not know about it or are themselves the perpetrators. There is lack of awareness and skills for the prevention of and response to cases of exploitation, violence and abuse by law enforcement, social and medical professionals, as well as a lack of information about the rights and possible support services for victims.
56. Council of Europe bodies, member States and other relevant actors should seek to:
- ❖ Mainstream the rights of persons with disabilities in the activities and work related to
    - the Council of Europe Convention on preventing and combating violence against women and domestic violence (*Istanbul Convention*),
    - the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (*Lanzarote Convention*),
    - the Council of Europe Convention on Action against Trafficking in Human Beings,
    - the independent monitoring mechanisms of the above conventions, and others, including the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Commission against Racism and Intolerance (ECRI) and the European Committee of Social Rights, where and as applicable.
  - ❖ Raise awareness to change legislation and to combat negative attitudes, stereotypes and practices in order to make exploitation, violence and abuse of persons with disabilities, including violence against women and domestic violence, illegal, visible and unacceptable.
  - ❖ Provide and promote human rights-based and gender sensitive disability-related training including in the framework of Council of Europe programmes (such as the HELP-Programme) for professionals to enable them to recognise and react against exploitation, violence and abuse of persons with disabilities and the risk of multiple discrimination.
  - ❖ Provide and promote human rights based- training and necessary assistance to persons with disabilities and their family members against exploitation, violence and abuse to enable them to recognise and to report such actions to relevant authorities, especially in institutional living arrangements.
  - ❖ Identify, collect and disseminate any existing good practices aiming at facilitating access of person with disabilities, including women, children, young people and persons with complex needs, to legal protection and necessary assistance in cases of exploitation, violence and abuse on an equal basis with others and according to their individual needs;

Risk analysis		
FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE		
➔ Persons with disabilities are free from exploitation, violence and abuse and have access to prevention, protection, prosecution and support services on an equal basis with others.		
Risks	Mitigating actions	Outcome
- Violence against persons with disabilities, including in the institutions or private homes, is not recognised or talked	- Awareness raising and human rights based training on recognising exploitation, violence and abuse.	- Violence against persons with disabilities is made illegal and harmful or abusive practices are abolished in all member

about.		States.
<p>- Claims of exploitation, violence and abuse of persons with disabilities, are not taken seriously or understood by family members, professionals or authorities.</p>	<p>- Awareness raising campaigns and human rights based and gender sensitive training programmes on prevention and protection are provided on exploitation, violence and abuse for relevant personnel, family members and persons with disabilities.</p>	<p>- Claims of exploitation, violence and abuse by or on behalf of persons with disabilities are taken seriously and handled appropriately and persons with disabilities have access to legal protection, services and assistance.</p>

## 4. Working methods

### 4.1. Institutional setting

57. The transversal nature of the Disability Strategy presupposes that all Council of Europe decision-making, standard setting, advisory and monitoring bodies support and actively contribute to the achievement of the goals and the strategic objectives of the Strategy. They will be invited to take initiatives within their respective mandate's remit taking due account of their status and resources.
58. To stimulate and facilitate this process, the Council of Europe will foster internal co-operation and synergies in particular with and amongst:
- the Committee of Ministers,
  - the Parliamentary Assembly,
  - the Congress of Local and Regional Authorities,
  - the Office of the Commissioner of Human Rights,
  - the European Court of Human Rights,
  - the Council of Europe Development Bank (CEB)
  - the Conference of the INGOs,
  - Steering committees, other inter-governmental bodies, Council of Europe's monitoring mechanisms and partial agreements.
59. The Ad Hoc Committee of Experts on the Rights of Persons with Disabilities, the intergovernmental group of experts open to all Council of Europe member States has the mandate to steer the implementation of the Disability Strategy, advise and involve the various stakeholders as well as liaise with relevant intergovernmental bodies, providing expertise and a forum for the exchange of good practices and issues of concern.

### 4.2. Partnerships

60. Like the Council of Europe, other international and regional partners are working to improve the access to all human rights by persons with disabilities, including through the promotion and implementation of the UNCRPD.
61. At the UN level, in addition to many interagency actors on disability, the Special Rapporteur on the rights of persons with disabilities, the Committee on the Rights of Persons with Disabilities and the Special Envoy of the Secretary-General on Disability and Accessibility all work to promote the full and effective participation of persons with disabilities in society

and the full and equal access to all human rights by persons with disabilities on the basis of the UNCRPD. The Sustainable Development Goals as well as Social Corporate Responsibility have also disability related dimensions.

62. The European Union, itself a party to the UNCRPD (under Article 44 of the UNCRPD), implements the UNCRPD principles through its Disability Strategy 2010-2020<sup>20</sup>. The Strategy consists of eight areas: accessibility, participation, equality, employment, education and training, social protection, health and external action. The EU's monitoring framework is actively working on the basis of its Work Plan 2015-2016 to promote, protect and monitor the CRPD in the EU. Also the European Union Fundamental Rights Agency (FRA) is developing indicators and benchmarks and carrying out comparative legal and social research with regard to disability and the implementation of the UNCRPD in the EU member States.
63. The WHO and the World Bank published in 2011 their overarching World Report on Disability<sup>21</sup>. The WHO is currently implementing its Global Disability Action Plan 2014-2021 and the World Bank has a multitude of ongoing projects and research with regard to persons with disabilities.
64. The Council of Europe will seek to enhance co-operation and synergies with the above mentioned regional and international organisations and other global actors to facilitate and ensure full access to all human rights for persons with disabilities and the effective implementation of the UNCRPD.
65. Additionally, the Council of Europe will seek to involve, engage and use the experience and expertise of civil society organisations of and for persons with disabilities and young people with disabilities, when relevant, in the development, implementation and assessment of policies, programmes and activities and encourages the member States to do the same at the national and local levels.
66. Equally, the National Human Rights Institutions, Equality Bodies and Ombudsmen Offices and their respective networks will be included in the work. Other natural partners in the implementation of the Disability Strategy include:
  - Parliaments;
  - National Governments;
  - Local and regional authorities and their associations;
  - Professional networks (in particular in the judiciary and in the journalism, education, health and social services fields);
  - Trade unions and employers associations;
  - Higher Education Institutions;
  - The media;
  - The private sector.

#### 4.3. Communication

67. A communication plan, including traditional and new social media, will be developed with the aim of:

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<sup>20</sup> European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe

<sup>21</sup> The WHO& the World Bank "World Report on Disability" (2011)

- ❖ increasing the visibility of the rights of persons with disabilities within Council of Europe standards, studies, guidelines, events and their results on the rights of persons with disabilities;
- ❖ making the Council of Europe work on rights of persons with disabilities accessible to wide and diverse audience through various accessible modes, means and formats of communication.
- ❖ raising awareness on disability issues , taking due account of a diversity and gender equality perspective, with a view to changing legislation, structures, negative attitudes and behaviour within the Council of Europe and at the national and local levels;
- ❖ facilitating the exchange of information between member States and with other partners;
- ❖ promoting visibility of good practices at the regional, national and local levels.

#### 4.4. Implementation and follow up

68. The implementation of the Strategy by the member States and the Council of Europe will include co-operation with the government representatives to the Committee of Experts on the Rights of Persons with Disabilities, national focal points, coordination mechanisms and independent frameworks, as they are established nationally under Article 33 of the UNCRPD as well as with the civil society.
69. The implementation will be based on a “twin-track” approach, including not only specific projects, campaigns, training, activities etc. at the national and local levels in the member States aimed at and for persons with disabilities, but also mainstreaming disability related issues in all the work and activities of the Council of Europe.
70. In the implementation of the Strategy, the member States must take into account the developments within the Council of Europe, as well as in the UN, on the interpretation and implementation of the UNCRPD.
71. Training on issues related to the human rights of persons with disabilities will be provided as needed and requested by the different sectors within the Organisation.
72. The follow-up of the Strategy will focus on strengthening co-operation in the field of disability and will allow for effective exchange of information, experience and good practices.
73. To assess progress in the implementation of the Strategy at the level of the Council of Europe and its member States, the Ad hoc Committee of Experts on the Rights of Persons with Disabilities will prepare bi-annual reports to be brought to the attention of the Committee of Ministers. The biannual report will take into account, among others and where applicable, recommendations by the independent monitoring mechanisms and various other structures within the Council of Europe, case-law of the European Court of Human Rights, disability related events, campaigns and publications, as well as legislative and structural developments at the international, regional, national and local levels.

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## ANNEX 1

A history timeline of main activities of Council of Europe on the Rights of Persons with Disabilities

## ANNEX 2

A list of Recommendations etc. by Council of Europe organs on the Rights of Persons with Disabilities