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Human rights: a reality for all

Draft Council of Europe Disability Strategy

2017-2023

Working document

prepared by the Secretariat¹

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1. The Council of Europe and the rights of persons with disabilities

1.1. Context

1. The Council of Europe promotes, protects and monitors the implementation of human rights for all, including 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 and other stakeholders** on policies, activities and measures to ensure implementation of priorities at national and local levels.
2. Persons with disabilities are entitled to have access to and enjoy the full range of human rights safeguarded by the European Convention on Human Rights, the European Social Charter and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD²) as well as all other international human rights instruments, on an equal basis with others.
3. This Strategy seeks to encompass **all civil, political, economic, social and cultural rights**. It sets out the commitment of the Council of Europe and its member States to make the rights a reality for all persons with disabilities, regardless of their impairments. 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 2016-2021³ and the UN Convention on the Rights of the Child⁴. This also includes older persons, in line with the Council of Europe recommendation on the promotion of human rights of older persons⁵.
4. In constantly changing societies new situations emerge. The on-going economic challenges and the increasing amount of refugees and persons seeking asylum within the member States has changed priorities and has had an impact on persons with disabilities and their support services. In order to mitigate the challenges, continuous attention to and action on the rights of persons with disabilities by the decision makers, persons with disabilities, their organisations and their family members, service providers, and the population in general is required.
5. Close consultation and active involvement of persons with disabilities of all ages through their representative organisations in the work of member State governments is obligatory, as stipulated in the UNCRPD. Participation and contribution of National Human Rights Institutions, Equality Bodies and Ombudsman Institutions and their regional and international networks is of high importance. This will improve mainstreaming and implementation of strategy priorities and the UNCRPD principles. The Council of Europe will seek to increase this co-operation in all fields of its activities.

1.2. Council of Europe Legal Standards

6. All legal standards of the Council of Europe apply equally to all persons, including all persons with disabilities.
7. **The European Convention on Human Rights** provides the foundations for the Council of Europe work to protect and promote human rights for all, including the rights of

² [UN Convention on the Rights of Persons with Disabilities](#)

³ [Council of Europe Strategy for the Rights of the Child 2016-2021](#)

⁴ [UN Convention on the Rights of the Child](#)

⁵ [Council of Europe CM/Rec\(2014\)2 on the promotion of human rights of older persons](#)

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.

8. **The European Social Charter** 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 (providing that the rights of the Charter shall be secured without discrimination on any ground).
9. Other legally binding standards especially relevant to the rights of persons with disabilities include: **the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence** (Istanbul Convention), **the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse** (Lanzarote Convention), **the Convention on Action against Trafficking in Human Beings**.

1.3. Council of Europe Disability Action Plan 2006-2015

10. 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*”⁶. The Recommendation included in its appendix the **Council of Europe Action Plan (DAP)**⁷. In December 2006, the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)** was adopted. It entered into force in May 2008. By the end of August 2016, 43⁸ out of the 47 Council of Europe member States have ratified the UNCRPD⁹. The Optional Protocol has been ratified by 31 member States¹⁰.
11. Both the UN Convention and the Council of Europe DAP marked a “*paradigm shift*” from the traditional medical-based approach to disability to one based on human rights. Persons with disabilities as human beings with dignity and rights 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**.
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)¹¹, built on and benefited from the wide knowledge, experience and expertise on human rights of persons with disabilities 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.
13. The evaluation document¹² 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 promoting and protecting human rights of persons with disabilities. It highlighted **achievements**, in particular **with regard to**

⁶ [Council of Europe Recommendation Rec\(2006\)5](#)

⁷ [Council of Europe Disability Action Plan 2006-2015](#)

⁸ By the end of August 2016, Iceland, Ireland, Liechtenstein and Monaco have not yet ratified the UNCRPD

⁹ [Ratifications of the UNCRPD](#)

¹⁰ [Ratifications of the Optional Protocol to the UNCRPD](#)

¹¹ [PACE Recommendation 2064 \(2015\) "Equality and inclusion for people with disabilities"](#)

¹² [Abridged evaluation report of the Council of Europe Disability Strategy 2006-2015](#)

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 and the full involvement of organisations working with and for persons with disabilities, the persons with disabilities themselves, and other relevant stakeholders. Sharing of know-how and exchanging of promising practices is needed to ensure that Europe becomes a democratic, welcoming home for all, and upholds its values of democracy, respect for human rights and diversity.

1.4. The new Strategy

16. **The overall goal** of the Council of Europe Disability Strategy 2017-2023 (the Strategy) is **to achieve equality, dignity and equal opportunities for persons with disabilities**. This requires ensuring independence, freedom of choice, full and active participation in all areas of life and society, including living in the community.
17. The member States have already agreed to these goals by ratifying the UNCRPD. Unlike the UNCRPD, the Strategy does not create legal obligations to member States. The Strategy document aims at guiding and supporting the work and activities aimed at implementing the UNCRPD and carried out by the Council of Europe, its member States and other stakeholders both at national and local levels.
18. At the outset, the Strategy identifies **five cross-cutting issues that need to be considered in all the Council of Europe work and in all its activities** supporting member States. These issues are also essential for member States to take into consideration in their legislation, policies and activities and in all areas of life to improve the lives of persons with disabilities.
19. The **cross-cutting issues** are
 - Participation, co-operation and coordination
 - Universal Design and reasonable accommodation
 - Gender equality perspective
 - Multiple discrimination
 - Education and training
20. The Strategy has **five rights based priority areas**. They are anchored in the European Convention on Human Rights and other Council of Europe standards promoting and protecting human rights. Each of them is also connected to corresponding Articles of the UNCRPD, aiming at its implementation in practice.
21. 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

22. The priority areas build on and further develop the existing body of work by the Council of Europe, bringing added value to work done in other regional and international contexts, such as at the level of the EU and the UN. In addition they aim to bring focus to the future Council of Europe work related to disability rights in order to achieve tangible results during the period covered by the Strategy (2017-2023).
23. 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, as well as the developing case law of the European Court of Human Rights and the decisions of the European Committee of Social Rights.
24. Additionally, international standards on **social responsibility**, including corporate social responsibility, aimed at promoting the engagement of private sector and business enterprises in respect and implementation of human rights¹³, **UN Global Compact**¹⁴ and the **UN Sustainable Development Goals (SDGs)**¹⁵ are part of the tools to improve the inclusion of persons with disabilities in the society.
25. The **beneficiaries** of the Strategy are persons with disabilities living in the 47 Council of Europe member States and society as a whole. The governments of member States drive the implementation of the Strategy at **national and local levels in close cooperation with persons with disabilities**, represented by their organisations, and all other relevant stakeholders. These include National Human Rights Institutions, Equality Bodies, Ombudsman Institutions, service providers and civil society. All these stakeholders were invited to contribute in the **broad and open consultations** during the preparation of the Strategy.

1.5. Risk management and national implementation

26. Lack of political commitment leading, *inter alia*, to insufficient financial and human resources, are general risk factors that apply to all priority areas. These factors risk undermining respect for human rights and fundamental freedoms of persons with disabilities and the provision of empowering support.
27. In the Strategy document, each priority area has a **risk analysis table** attached to it. The tables state the **expected impact** or ultimate goal at beneficiary level for each priority area. This can be reached in many different ways, in accordance with developments and structures at national and local levels.
28. The risk analysis tables present **some general examples** of possible
- **risk factors** that could negatively affect the achievement of the outcomes at the level of the member States.
 - **mitigating actions** to counter such risk factors,
 - **outcomes** as steps towards the expected impact.
29. The risk analysis tables present some possible examples of risks, mitigating actions and outcomes. The examples are indicative and do not cover all possible options available at national and local levels. Other examples as well as specific actions and activities (**outputs**) will be examined in detail during the implementation of the Strategy at

¹³ [Council of Europe Recommendation CM/Rec\(2016\) on human rights and business](#)

¹⁴ [UN Global Compact](#)

¹⁵ [UN Sustainable Development Goals](#)

national and local levels on the basis of disability **strategies, action plans, indicators and other relevant policy documents and standards.**

30. In addition to the activities undertaken at national and local levels by the member States and other stakeholders, a biennial work plan with a selection of actions and activities (outputs) to be undertaken by the Council of Europe, in co-operation with the member States, will be prepared (see section 4.4. Implementation and follow up).

2. Cross cutting themes

2.1. Participation, co-operation and coordination

31. **Full and effective participation of persons with disabilities** in all areas of life and the society as a whole is crucial for the enjoyment of all human rights. In the context of the Council of Europe this means increased and improved participation of persons with disabilities throughout the work and activities of the Council of Europe, including in co-operation projects funded, supported, managed or implemented by the Council of Europe.
32. Article 32 of the UNCRPD recognizes the importance of **international co-operation** in support of the national implementation of the Convention. It is therefore important that the Council of Europe and its independent monitoring mechanisms align their work and activities in this field, building on the added value of the Council of Europe and benefiting from the **meaningful participation** of representative organisations of persons with disabilities and other relevant stakeholders. This will ensure the effective implementation of the UNCRPD and Council of Europe standards at the national and local levels.
33. All Council of Europe work on issues related to disability rights will continue to pay particular attention to **synergies, co-operation and coordination**. This includes, *inter alia*, co-operation with national focal points, coordination mechanisms and independent monitoring frameworks as formulated in and assigned nationally under Article 33 of the UNCRPD. This also includes co-operation with other regional and international organisations, National Human Rights Institutions (NHRIs), Equality Bodies, Ombudsman Institutions and civil society, service providers, specialised agencies, media, private sector, academia, independent experts and in particular organisations of persons with disabilities.
34. All different levels of participation need to be 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.

2.2. Universal design and Reasonable accommodation

35. Disability is the result of interaction between individual impairments and existing attitudinal and environmental barriers. Disability may hinder the full enjoyment of human rights and fundamental freedoms and prevent persons with disabilities from participating effectively and equally in the society. Persons with multiple, complex and intersecting impairments face additional barriers and are at higher risk of institutionalisation, exclusion and poverty. Measures to prevent or remove existing barriers are necessary investments for sustainable development and improved accessibility.
36. Accessibility challenges can be avoided or greatly diminished through intelligent and not necessarily costly applications of the **Universal Design principle**. In addition to

necessary **accessibility measures** related to groups, **individual barriers** can further be overcome by individually tailored **reasonable accommodation**. Denial of reasonable accommodation as well as denial of access can constitute discrimination. Both of these concepts are defined and described in the UNCRPD (Articles 2 and 4).

37. Universal Design principle and the **promotion and development of affordable assistive technologies, devices and services** aimed at removing existing barriers should be increasingly promoted. They need to be 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.

2.3. Gender equality perspective

38. Gender equality means equal visibility, empowerment, responsibility and participation for both women and men in all spheres of public and private life.
39. In the context of Council of Europe this means that gender equality concerns are included in the **planning, budgeting, implementation, monitoring and evaluation** of all policies, programmes and activities in the field of disability and *vice versa*. It also requires the use of gender and disability disaggregated data and the equal participation of women and men in all programmes and activities in this field.
40. Women and girls with disabilities often face **additional barriers** and higher levels of discrimination in their access to human 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 home¹⁶.
41. In order to mitigate these additional barriers and improve equality, 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.

2.4. Multiple discrimination

42. Many persons with disabilities are at risk of **multiple and/or intersecting forms of discrimination and segregation** from the society due to their specific situations (e.g. financial or educational status, living or housing arrangement, level of assistance needed, disability or combination of multiple disabilities etc.) or to certain grounds (e.g., race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, age, sexual orientation, gender identity¹⁷ or other status). This Strategy attributes attention to the application of the non-discrimination principle across all priority areas.
43. 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 the work and activities within the Council of Europe and at the national and local levels, including in the work of independent monitoring mechanisms.

2.5. Education and training

¹⁶ Council of Europe Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms. Explanatory Memorandum, paras 181-182

¹⁷ Council of Europe Recommendation CM/Rec(2010)5 of the Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity

44. **Quality education**, including human rights education, is a prerequisite for persons with disabilities to enjoy human rights on an equal basis with others.
45. In the context of the Council of Europe this means **improved access for persons with disabilities to information, education and training** programs and events about human rights and their implementation. This also means **inclusion** of persons with disabilities as actors and users in education and training projects funded, supported, managed or implemented by the Council of Europe.
46. **Education and training programmes, campaigns and materials aimed at professionals** need to include a disability dimension to ensure that professionals have the requisite skills and knowledge, to fulfil their duties in an equal and inclusive way. Such programmes need to take into account due respect for the rights of persons with disabilities and guarantee high quality services in the mainstream as required by and in compliance with international standards.
47. Lastly, quality education includes **education for everyone**, including family members of persons with disabilities on disability and human rights, capabilities of persons with disabilities and barriers they encounter (i.e. awareness raising).
48. Education and training, including human rights education of persons with disabilities and education and training about rights of persons with disabilities, should be 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.

3. Priority areas

3.1. Equality and non-discrimination

49. Equality is a core principle 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).
50. Unequal treatment and discrimination in its many forms are preventing the full and equal enjoyment of all human rights and fundamental freedoms for persons with disabilities. Also the economic crisis and austerity measures can pose a risk to inequality by the shortage of resources and budget cuts on national and local levels in support and services aimed at persons with disabilities.
51. Council of Europe bodies, member States and other relevant stakeholders should seek to:
 - a) **Mainstream equality and non-discrimination** as well as information about human rights for all persons with disabilities in all areas of work of the Council of Europe and at the national and local levels.
 - b) **Encourage** independent Council of Europe monitoring mechanisms to integrate equality and non-discrimination of all persons with disabilities and their equal enjoyment of human rights into their monitoring work, where applicable, and to make recommendations in this regard.

- c) **Promote equality and non-discrimination** of all persons with disabilities, in particular through inclusive education system and the development of training, communication and employment initiatives. These need to target a broad range of professionals, including civil servants and service providers and must be developed with active involvement of persons with disabilities and their representative organisations.
- d) **Support** efforts to collect adequately disaggregated data and targeted statistics on discrimination towards persons with disabilities and barriers preventing full enjoyment of their human rights. Include this information in general statistics and data collection.
- e) **Promote** the setting up of strong, independent and well-resourced National Human Rights Institutions, Equality Bodies and Ombudsman Institutions ensuring equality and non-discrimination at the national and local levels.
- f) **Identify, collect and disseminate** existing remedies and good practices aiming at facilitating access of person with disabilities to affordable legal protection in cases of discrimination.

Risk analysis		
EQUALITY AND NON-DISCRIMINATION		
Expected Impact:		
Persons with disabilities are treated equally with others and without discrimination in the society		
Risks	Mitigating actions	Outcomes
<ul style="list-style-type: none"> - Insufficient steps are taken by stakeholders to mainstream equality, including gender equality, and non-discrimination in their work. 	<ul style="list-style-type: none"> - Awareness raising, information campaigns and joint discussions on equality and non-discrimination in general and in specific with regard to persons with disabilities. 	<ul style="list-style-type: none"> - <i>Changes in legislation</i> Discrimination on the basis of disability is made illegal in all the Council of Europe member States - <i>Recognition of multiple discrimination</i> Multiple and intersecting forms of discrimination of persons with disabilities are acknowledged and relevant action is taken. - <i>Monitoring</i> 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.
<ul style="list-style-type: none"> - The education and health care systems and labour market fail to engage and include PWDs or there is insufficient level of assistance 	<ul style="list-style-type: none"> - Awareness raising and information campaigns to educators, health care professionals and educational and professional 	<ul style="list-style-type: none"> - <i>Inclusive programs</i> Increasing amount of educational institutions and places of employment include persons with

and reasonable accommodation available.	training authorities on the importance of inclusion and on the various needs for assistance in education or employment.	disabilities and create assistance schemes, whenever is needed. - <i>Training</i> All professional training includes awareness on disabilities and persons with disabilities.
- 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.	- Dissemination of good practices on access to legal protection and improved co-operation between various institutions (CLARITY).	- <i>Accessible information on rights and remedies</i> Persons with disabilities receive information and assistance in various accessible means, modes and formats, including sign languages and braille on the legal remedies against discrimination on the basis of disability and in relation to multiple discrimination.

3.2. Awareness raising

52. Awareness raising, including through the education system, 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 through effective awareness raising policies, strategies and actions involving all relevant stakeholders, including the media.
53. Discriminatory attitudes and behaviour, stigmatisation and their damaging or harmful consequences on persons with disabilities must be countered by accessible and objective information on ability as opposed to inability. This includes disabilities and the barriers in society in order to promote a better understanding of the needs and fulfilment of rights of persons with disabilities and their inclusion in all areas of life.
54. Council of Europe bodies, member States and other relevant stakeholders should seek to:
- a) **Undertake public awareness raising 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 diversity and gender equality perspective.
 - b) **Develop information campaigns** to change legislation and combat negative attitudes, stereotypes and practices to make discrimination of persons with disabilities both illegal and unacceptable. The use of targeted statistics as a critical campaign information tool is encouraged. These information campaigns will be relayed, in addition to the public at large, to national parliaments and local and regional authorities and to the Parliamentary Assembly and the Congress of Local and Regional Authorities.
 - c) **Ensure close co-operation** with and active participation of the representative organisations of persons with disabilities, the National Human Rights Institutions, Equality Bodies and Ombudsman Institutions and their respective networks and other

relevant mainstream stakeholders to benefit from their experience and expertise with regard to human rights and lived experience of persons with disabilities.

- d) **Promote** respect, equality, capabilities and active participation, involvement and inclusion of persons with disabilities in the media, entertainment and cultural life as both active actors and users.
- e) **Identify, collect and disseminate** good practices with regard to awareness raising.

Risk analysis		
AWARENESS RAISING		
Expected Impact: 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 persons with disabilities.	- Awareness raising and media campaigns on the skills and capabilities of persons with disabilities. - Human rights training programmes for persons with disabilities, their family members and persons working with them.	- <i>Human Rights knowledge</i> 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.
- Lack of media coverage, negative stereotypes and negative portrayal of disability related issues or persons with disabilities. Sensational reporting.	- Awareness raising training on disability aimed at representatives of the media. - Partnerships with media (both traditional and new media)	- <i>Visibility of PWD</i> Persons with disabilities are included in the media as active actors and users, including being aware of dangers on the internet.
- Lack of knowledge of prevalence of disabilities in society.	- Dissemination of good practices on improving statistics with regard types and frequency of disabilities and persons with disabilities.	- <i>Data collection</i> Accurate and age- and sex-disaggregated statistical data is available on the disabilities and persons with disabilities.

3.3. Accessibility

55. Accessibility, as defined in UNCRPD (Article 9) is a precondition for persons with disabilities to be able to enjoy human rights actively, participate and contribute fully and equally in the society, be independent and make choices about all aspects of their lives.

56. Accessibility is often viewed only as accessibility to the built environment. However, it is a much wider concept. It extends also to accessibility of goods and services, including the channels in which services are delivered. Accessibility is connected to all the

provisions of the UNCRPD and therefore needs to be seen from the perspective of equality and non-discrimination. It applies equally to public and private sectors. Accessibility is, in other words, an enabler for persons with disabilities in all areas of life. Here, however, special focus is given to access to information, information technologies and the communication sector.

57. **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 use 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 participation¹⁸ and eventually enables enjoyment of other human rights. Human rights cannot be enjoyed without information about them and access to them.
58. 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 left behind, including persons with multiple disabilities and complex needs.
59. 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, access to printed word and copyright issues. This includes the need for accessible political campaigns to promote full participation in public and political life.
60. Council of Europe bodies, member States and other relevant stakeholders should seek to:
 - a) **Promote debate on quality access** to information, communications and digital environment for persons with disabilities. Debate should also include media and information literacy as well as inclusion and participation in shaping public policies on the information society.
 - b) **Promote accessibility** and the use of universal design, 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.
 - c) **Promote the use of accessible and user friendly means, modes and formats of communication**, including sign languages, braille, easy to read text and other alternative and augmentative communication methods, 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 and the private sector stakeholders. Take into consideration the additional copyright costs from
 - d) **Promote information, learning opportunities and protection measures** for persons with disabilities in accessible means, modes and formats of communication to enable safe and responsible use of the new information and communication technologies (ICT) and to avoid their harmful side effects. Such side effects include,

¹⁸ [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.](#)

among others, cyber-bullying, fraud and sexual abuse or exploitation through the social network sites, especially with regard to children and young people with disabilities

- e) **Encourage** the 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 etc.
- f) **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 human rights by persons with disabilities.
- g) **Identify, collect and disseminate** existing good practices on accessibility, and in particular on access to information.

Risk analysis		
ACCESSIBILITY		
Expected Impact:		
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 media with the support of accessible ways of communication, including by using sign languages and braille.		
Risks	Mitigating actions	Outcomes
<ul style="list-style-type: none"> - Persons with disabilities face barriers to fully participate in society in general and experience obstacles accessing information in specific due to inaccessible environments. 	<ul style="list-style-type: none"> - Dissemination of good and affordable practices and solutions on accessibility are promoted. - Universal design criteria is included in public all public procurement exercises. 	<ul style="list-style-type: none"> - <i>Application of Universal Design</i> Universal design is used as a standard for all new developments, including on the internet and media and reasonable accommodation is available. - <i>Sign languages and braille</i> 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.
<ul style="list-style-type: none"> - Lack of availability and high price of technological solutions 	<ul style="list-style-type: none"> - Dissemination of information on new affordable innovations in the technological area. 	<ul style="list-style-type: none"> - <i>Cost of training and technical assistance devices</i> Information and training are available in member States in accessible means, modes and formats of communication and technical assistance devices and various printed products are available either for free or at low cost for persons with disabilities.

3.4. Equal recognition before the law

61. Equal recognition before the law, as defined among others by the UNCRPD (Article 12)¹⁹ refers to the two parts of legal capacity, the **capacity to hold rights and duties** and the **capacity to act** on them. Legal capacity and access to justice are essential to real participation in all areas of life and full inclusion of persons with disabilities in the society. Legal capacity is in fact connected to all human rights and their enjoyment.
62. Control over one's life and all its aspects are fundamental requirements for the full enjoyment of all human rights. Legal capacity continues to be denied to a part of the population on the basis of disability, particularly 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, still prevail in many member States. Some aspects of these practices have been confirmed as a violation of basic human rights and fundamental freedoms by decisions of the European Court of Human Rights (ECtHR), which has called on the relevant authorities to remedy such violations.
63. States are required under the UNCRPD, as far as possible to replace **substituted decision-making** with systems of **supported decision-making**. Possible limitations on decision-making should be considered on an individual basis, be proportional and be restricted to the extent to which it is absolutely necessary. Limitations should not take place when less interfering means are sufficient in light of the situation, and accessible and effective legal safeguards must be provided to ensure that such measures are not abused.
64. Council of Europe bodies, member States and other relevant stakeholders should seek to:
- a) **Support** member States in their efforts to improve their legislation, policies and practices with regard to ensuring legal capacity of persons with disabilities.
 - b) **Identify, collect and disseminate** existing good practices on **supported decision-making systems and practices** that persons with disabilities have available for being able to exercise their legal capacity and have access to choices and rights.
 - c) **Promote** training of public and private professionals engaged in supported decision-making systems and develop communication initiatives for the general public to enhance understanding and knowledge of the right to equal recognition before the law, in co-operation with persons with disabilities.
 - d) **Identify, collect and disseminate** existing national legislation, policies and practices providing for **appropriate and effective safeguards** to protect persons with disabilities from exploitation and abuse in accordance with international human rights law, including assistance and support mechanisms available in engaging those safeguards.
 - e) **Identify, collect and disseminate** existing good practices aiming at facilitating access of person with disabilities to mainstream **legal protection**, and 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.)

¹⁹ [UNCRPD Committee General Comment no. 1 \(2014\)](#)

Risk analysis		
EQUAL RECOGNITION BEFORE THE LAW		
Expected Impact: Persons with disabilities enjoy equal recognition before the law 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;	- <i>Supported decision making</i> Persons with disabilities retain their legal capacity and substituted decision-making is replaced as far as possible 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.	- <i>Assistance and safeguards</i> 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

65. Under UNCRPD (Article 16), it is a State duty to **prevent** all forms of exploitation, violence and abuse and to **protect** persons with disabilities from it. Also **promotion** of recovery, rehabilitation and reintegration are necessary parts of the implementation.
66. Compared to the general population, persons with disabilities face a higher risk of violence and abuse of various types, such as physical, sexual, financial or psychological.
67. Particularly children, young and older persons and those with complex needs are at risk of **multiple and intersecting types of exploitation, violence and abuse**. This includes also homeless and persons living in institutional or segregating living arrangements.
68. Women and girls with disabilities, 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)²⁰.

²⁰ [Council of Europe Convention on preventing and combating violence against women and domestic violence](#)

69. Furthermore, **living arrangements in isolation or segregation from the community** as such, are not only contrary to the right to live in the community as enshrined under UNCRPD (Article 19), but also often give rise to some of the most serious human rights violations in Europe. The widely-documented violence and abuse in such arrangements is one of the many reasons for the need to progressively replace them with community-based services.
70. In addition to discrimination, violence, intolerance, hate crime and hate speech faced by all migrants, refugees and asylum seekers, those with disabilities are more exposed to all forms of discrimination as well as exploitation, violence and abuse. A comprehensive, strategic approach to the integration and inclusion of **migrants with disabilities** is needed both at national and local levels^{21 22}.
71. Hate crime and bullying, especially on internet, are also forms of exploitation, violence and abuse that affect especially children and young people with disabilities.
72. 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. 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 current information about the rights and possible support services for victims needs to be improved.
73. Council of Europe bodies, member States and other relevant stakeholders should seek to:
- a) **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 Council of Europe Convention on Human Rights and Biomedicine (Oviedo Convention) and its Additional Protocol concerning Transplantation of Organs and Tissues of Human Origin See above the comment on removing Oviedo as reference
 - 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 (ECSR) , where and as applicable.
 - b) **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 as well as institutional violence, **illegal, visible and unacceptable**.

²¹ [Council of Europe Human Rights Commissioner CommDH/IssuePaper \(2016\)2](#)

²² [Secretary General of the Council of Europe: State of Democracy, Human Rights and the Rule of Law, Security imperative for Europe, 2016](#)

- c) **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 in public and private sectors to enable them to recognise and react against exploitation, violence and abuse of persons with disabilities and the risk of multiple discrimination.
- d) **Provide and promote** human rights based training and necessary and accessible **support to persons with disabilities and their family members** against exploitation, violence and abuse to enable and to **empower them** to recognise and to report such actions to relevant authorities, especially in institutional living arrangements while institutions remain and are not yet fully replaced by community-based services.
- e) **Identify, collect and disseminate** any existing good practices aiming at facilitating access of person with disabilities, including women, children, young and old people and persons with complex needs, to **legal protection and necessary support** 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		
Expected Impact:		
<p>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.</p>		
Risks	Mitigating actions	Outcome
<p>- Violence against persons with disabilities, including in the institutions or private homes, is not recognised or talked about.</p>	<p>- Awareness raising and human rights based training on recognising exploitation, violence and abuse.</p>	<p>- <i>Changes in legislation and practices</i> Violence against persons with disabilities is made illegal. Harmful or abusive practices are abolished in all member States.</p>
<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>- <i>Legal protection, services and assistance</i> Claims of exploitation, violence and abuse by or on behalf of persons with disabilities are taken seriously and handled appropriately. Persons with disabilities have access to accessible and affordable legal protection, services and assistance.</p>

4. Working methods

4.1. Institutional setting

74. 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.

75. 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.

76. 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 support 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

77. Like the Council of Europe, other international and regional partners are working to improve the enjoyment of all human rights by persons with disabilities, including through the promotion and implementation of the UNCRPD.

78. 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 and enjoyment of all human rights by persons with disabilities on the basis of the UNCRPD. The UN Sustainable Development Goals as well as UN Global Compact, including Social Corporate Responsibility, have also disability related dimensions.

79. **The European Union**, itself a party to the UNCRPD (under Article 44 of the UNCRPD), implements the UNCRPD principles through its legislation, including the EU Charter of Fundamental Rights, the EU Disability Strategy and the developing body of decisions by the European Court of Justice. The Strategy consists of eight areas: accessibility, participation, equality, employment, education and training, social protection, health and external action. The EU's monitoring framework with regard to the UNCRPD is actively working on the basis of its Work Plan to promote, protect and monitor the implementation of the UNCRPD in the EU. 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.

80. **The OSCE and its Office for Democratic Institutions and Human Rights (ODIHR)** focuses its disability related work on four areas. These are the legislative support mainstreaming inclusion of persons with disabilities, electoral participation of persons with disabilities, awareness raising in the form of training on tolerance and hate crime and the new portfolio focusing on participation in political and public life.
81. **The WHO and the World Bank** published their overarching World Report on Disability in 2011. The WHO is currently implementing its Global Disability Action Plan 2014-2021. The World Bank has a multitude of ongoing projects and research with regard to persons with disabilities.
82. **The Council of Europe** will seek to enhance co-operation, dialogue and synergies with the above mentioned international and regional organisations and other global actors to facilitate and ensure full access to and enjoyment of all human rights by all persons with disabilities and the effective implementation of the UNCRPD.
83. Additionally, **the Council of Europe** will seek to involve, engage and use the experience and expertise of **civil society organisations** and **the organisations of persons 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.
84. 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, law enforcement, journalism, education, health and social services fields);
 - Trade unions and employers associations;
 - Higher Education Institutions;
 - The media;
 - The private sector.

4.3. Communication

85. A communication plan, including traditional and new social media, will be developed with the aim of:
 - a) **increasing the visibility** of the human rights of persons with disabilities within Council of Europe standards, studies, guidelines, events and their results on the rights of persons with disabilities;

- b) **making** the Council of Europe work on human rights of persons with disabilities accessible to wide and diverse audience through various accessible modes, means and formats of communication.
- c) **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;
- d) **facilitating the exchange of information** between member States and with other partners;
- e) **promoting visibility** of good practices at the national and local levels.

4.4. Implementation and follow up

86. The implementation of the Strategy by the member States and the Council of Europe will include co-operation with the government representatives to the Ad Hoc Committee of Experts on the Rights of Persons with Disabilities. It will also include co-operation with 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.
87. The implementation will be based on a **“twin-track” approach**. One track comprises of specific projects, campaigns, training, activities etc. organised **at the national and local levels** by national stakeholders in the member States. The second track consists of mainstreaming disability related issues in all the work and activities of **the Council of Europe**.
88. The member States and other stakeholders, while implementing the Strategy, take into consideration the **developments** within the Council of Europe, as well as in the UN, on the interpretation and implementation of the UNCRPD. This includes UN Global Compact and the UN Sustainable Development Goals (SDGs).
89. **Training** within the Council of Europe 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.
90. 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 both within the Organisation and in the member States.
91. 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 **biennial reports** to be brought to the attention of the Committee of Ministers. The biennial 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, relevant case-law of the European Court of Human Rights, disability rights related events, campaigns and publications, as well as legislative and structural developments at the international, regional, national and local levels.
