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Promoting equal opportunities for people with disabilities and their participation at local and regional levels

Current Affairs Committee

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Summary

An estimated 15% of Europeans live with a disability, and one in four has a family member with a disability. The Council of Europe recognised the need to promote and protect the rights of persons with disabilities and committed to implementing its Disability Action Plan 2006-2015. However, many people with disabilities in Europe continue to face difficulties in exercising their right to vote and to participate in decision making, as well as a lack of access to both physical (built) and non-physical (policy) environments. The report gives an overview of their situation, identifies the existing obstacles and barriers to realising their rights, and provides examples of good local and regional strategies, policies and practices in removing these obstacles.

The report recommends that member State governments mainstream disability in their development policies and programmes, establishing mechanisms for the effective involvement of persons with disabilities and their representative organisations in decision making. It encourages the local and regional authorities in the member States to implement local and regional strategies and action plans for ensuring equal rights and opportunities for persons with disabilities and their participation, with a focus on improving accessibility of the built environment, goods and services, and on ensuring access to social rights such as inclusive education, employment and vocational training, health care and housing. The report also calls for national mechanisms to monitor the implementation of the 2006 UN Convention on the Rights of Persons with Disabilities, and asks member states, *inter alia*, to ensure the effective exercise of legal capacity for persons with certain types of impairments with regard to their right to vote and to stand as a candidate in elections, and to provide support for local and regional action on disability, including through sufficient budgetary funds for social services.

1 L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC: Socialist Group
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

PROMOTING EQUAL OPPORTUNITIES FOR PEOPLE WITH DISABILITIES AND THEIR PARTICIPATION AT LOCAL AND REGIONAL LEVELS

RESOLUTION 371 (2014)²

1. An estimated 15% of Europeans live with a disability, and one in four has a family member with a disability. If those living in institutions are taken into account, the overall incidence is likely to be even higher. Persons with disabilities are entitled to enjoy the same human and fundamental rights, and equal opportunities for a life without discrimination in all its dimensions, as anyone else, regardless of the nature and severity of their impairments. The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD), adopted in December 2006, represents a major step towards the recognition of disability as a human rights issue, and a commitment to enable people with disabilities to play an active role in policy decision making and participatory democracy.

2. The 'social model of disability' established under the UN CRPD moves away from the impairment of the individual to the ability — or inability — of society to ensure equal access to his or her rights. It recognises that it is the environment that is disabling and not the impairment itself, and that disability is the result of the dynamic interaction between persons with impairments and the social, physical and attitudinal barriers they face. This approach shifts policy and action on disability from protection to inclusion, stressing that people with impairments are not a vulnerable group in need of protection from public administrations but active players in policy decision making, with their unique potential, talents and strengths.

3. The Council of Europe recognised the need to promote and protect the rights of persons with disabilities and committed to implementing its Disability Action Plan 2006-2015, adopted by the Committee of Ministers' Recommendation CM/Rec(2006)5. This commitment was developed further in Recommendation CM/Rec(2009)8 on achieving full participation through Universal Design; Recommendation CM/Rec (2010)2 on deinstitutionalisation and community living of children with disabilities; Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life; Recommendation CM/Rec(2012)6 on the protection and promotion of the rights of women and girls with disabilities; and Recommendation CM/Rec(2013)2 on ensuring full inclusion of children and young persons with disabilities into society.

4. The Congress notes with concern, however, that many people with disabilities in Europe continue to face difficulties in exercising their right to vote and to participate in decision making, as well as a lack of access to both physical (built) and non-physical (policy) environments, which represents a major barrier to their self-realisation, full integration into society and meaningful participation in democracy. They also experience difficulties with having access to education and vocational training, health care, employment and housing, and with maintaining adequate standard of living. The impact of the economic crisis has further undermined progress towards full realisation of their rights, as austerity measures and budgetary cuts to social programmes contribute to exposing people with disabilities to higher risks of exclusion, poverty, discrimination, marginalisation, illiteracy and negative stereotypes.

5. The Congress is convinced that local and regional authorities can make a genuine difference in ensuring equal opportunities for persons with disabilities, their participation in decision making and their access to social rights, by adapting the built environment and inclusion policies and practices, and by providing individually tailored social support. The Congress notes in this regard the continued relevance of its Resolution 227(2007) on access to public spaces and amenities for people with disabilities.

6. The Congress is also convinced that mainstreaming disability in national, regional and local policies is key to promoting equal opportunities for people with impairments, and that such mainstreaming requires both the inclusion of disability issues in the design, implementation, monitoring and evaluation of policies and programmes at all levels of governance, and the participation of persons with disabilities and their representative organisations as an integral part of this process.

² Debated and adopted by the Congress on 14 October 2014, 1st sitting (see Document CG (27)8FINAL, explanatory memorandum), rapporteur: Josef NEUMANN, Germany (R, SOC).

7. In the light of the above, the Congress invites local and regional authorities of the Council of Europe member states to implement, within the remit of their competences, the relevant provisions of the Council of Europe Disability Action Plan 2006-2015 and the Committee of Ministers' recommendations referred to in paragraph 3 above, as well as Resolution 227(2007) of the Congress on access to public spaces and amenities for people with disabilities, and in particular to:

a. develop, with the participation of disabled people's organisations (DPOs), local and regional strategies and action plans for ensuring equal rights and opportunities for persons with disabilities and their participation, focusing on:

- i. mainstreaming disability in local and regional development policies and programmes, in particular those dealing with social protection and inclusion;
- ii. improving accessibility of the built environment, goods and services, information and communication;
- iii. ensuring access to social rights such as inclusive education, employment and vocational training, health care and housing.

b. set up, as appropriate, local and regional disability councils to co-ordinate the implementation of these strategies and action plans, and establish mechanisms for the effective involvement of persons with disabilities and their representative organisations in all stages of decision-making processes at regional and community level;

c. develop operational guides on how to foster access to education, employment, health, social protection and community-based services for persons with disabilities, and facilitate synergies between local and regional stakeholders in the education system, the employment sector, the welfare sector and the health sector;

d. implement specific programmes and measures addressing disadvantages of persons with disabilities in their vocational training and recruitment programmes as well as working environment;

e. pursue inclusive education policies providing for the enrolment of pupils with disabilities into mainstream schools, involvement of young disabled people as well as their parents and representative organisations in educational policy making, and adaptation of schooling facilities;

f. provide targeted training programmes for health-care workers, general practitioners and service providers aimed at equipping them with adequate knowledge and skills on how to manage the health-care needs of people with disabilities and to improve their access to comprehensive health-care services.

8. The Congress instructs its Current Affairs Committee to continue to address questions related to improving the opportunities available to people with disabilities and their participation at local and regional levels, and to ensure that the relevant good practices are disseminated to local and regional authorities, *inter alia* through their national and European associations.

PROMOTING EQUAL OPPORTUNITIES FOR PEOPLE WITH DISABILITIES AND THEIR PARTICIPATION AT LOCAL AND REGIONAL LEVELS

RECOMMENDATION 361 (2014)³

1. An estimated 15% of Europeans live with a disability, and one in four has a family member with a disability. The Council of Europe recognised the need to promote and protect the rights of persons with disabilities and committed to implementing its Disability Action Plan 2006-2015, adopted by the Committee of Ministers' Recommendation CM/Rec(2006)5. This commitment was developed further in Recommendation CM/Rec(2009)8 on achieving full participation through Universal Design; Recommendation CM/Rec (2010)2 on deinstitutionalisation and community living of children with disabilities; Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life; Recommendation CM/Rec(2012)6 on the protection and promotion of the rights of women and girls with disabilities; and Recommendation CM/Rec(2013)2 on ensuring full inclusion of children and young persons with disabilities into society.

2. Referring to its Resolution 371 (2014) on promoting equal opportunities for people with disabilities and their participation at local and regional levels, the Congress notes with concern, however, that many people with disabilities in Europe continue to face difficulties in exercising their right to vote and to participate in decision making, as well as a lack of access to both physical (built) and non-physical (policy) environments, which represents a major barrier to their self-realisation, full integration into society and meaningful participation in democracy. They also experience difficulties with having access to education and vocational training, health care, employment and housing, and with maintaining an adequate standard of living. The impact of the economic crisis has further undermined progress towards full realisation of their rights, as austerity measures and budgetary cuts to social programmes contribute to exposing people with disabilities to higher risks of exclusion, poverty, discrimination, marginalisation, illiteracy and negative stereotypes.

3. The Congress is convinced that mainstreaming disability in national, regional and local policies is key to promoting equal opportunities for people with impairments, and that such mainstreaming requires both the inclusion of disability issues in the design, implementation, monitoring and evaluation of policies and programmes at all levels of governance, and the participation of persons with disabilities and their representative organisations as an integral part of this process. In this regard, local and regional authorities can make a genuine difference in ensuring equal opportunities for persons with disabilities, their participation in decision making and their access to social rights, by adapting the built environment and inclusion policies and practices, and by providing individually tailored social support.

4. The Congress is also convinced that the right of people with disabilities to vote and to stand as a candidate in elections, together with their meaningful involvement in policy decision-making, constitute essential components of their participation in political life.

5. In the light of the above, the Congress requests that the Committee of Ministers invite member States of the Council of Europe to:

a. ratify, if they have not yet done so, the 2006 UN Convention on the Rights of Persons with Disabilities, and establish appropriate mechanisms to monitor its implementation;

b. ensure the compliance of their national legal frameworks with the provisions of the Council of Europe Disability Action Plan 2006-2015 and the Committee of Ministers' recommendations referred to in paragraph 1 above;

c. in particular, revise the legal provisions as appropriate in order to ensure the effective exercise of legal capacity for persons with certain types of impairments and their right to vote and to stand as a candidate in elections;

³ Debated and adopted by the Congress on 14 October 2014, 1st sitting (see Document CG (27)8FINAL, explanatory memorandum), rapporteur: Josef NEUMANN, Germany (R, SOC).

d. develop and implement, with the participation of local and regional authorities and disabled people's organisations (DPOs), national strategies and action plans for ensuring equal rights and opportunities for persons with disabilities and their participation, focusing on mainstreaming disability in national development policies and programmes, improving accessibility of the built environment and ensuring access to social rights;

e. set up mechanisms to co-ordinate the implementation of these strategies and action plans at subnational level, aimed at building synergies with local and regional measures and providing support to local and regional action plans on disability;

f. establish national mechanisms for the effective involvement of disabled people's organisations in decision-making processes;

g. ensure sufficient budgetary funds for social services at local and regional levels in order to enable the full participation of people with disabilities.

PROMOTING EQUAL OPPORTUNITIES FOR PEOPLE WITH DISABILITIES AND THEIR PARTICIPATION AT LOCAL AND REGIONAL LEVELS

EXPLANATORY MEMORANDUM

1. Introduction

1. Human rights have a home. Their home is where people live, work, start a family, grow old – in regions and municipalities, in city districts and local neighbourhoods. Human rights' home or homelessness is determined by people's experience of whether or not they are treated equally and are equally included. The reality of an inclusive society is thus determined locally. This holds true especially for people with impairments.

2. Persons with disabilities are entitled to enjoy the same human and fundamental rights, and equal opportunities for a life without discrimination in all its dimensions, as anyone else, regardless of the nature and the severity of their impairments. The United Nations Convention on the Rights of Persons with Disabilities (UN CRPD),⁴ adopted in December 2006, represents a major step towards the recognition of disability as a human rights issue, and a commitment to enable people with disabilities to play an active role in policy decision making and participatory democracy.

3. The UN CRPD is based on the 'social model of disability', stressing that persons with disabilities have the same rights as anyone else – as opposed to the 'medical model', which considered disability to be a result of physical, sensorial and mental impairments. The social model moves away from the impairment of the individual to the ability — or inability — of society to ensure equal access to his or her rights. It recognises that it is the environment that is disabling and not the impairment itself, and that disability is the result of the dynamic interaction between persons with impairments and the social, physical and attitudinal barriers they face.

4. This approach is contributing to gradually changing the old vision of a top-down governance when public authorities decided in isolation what was best for their citizens with disabilities, towards a new vision which is based on a more horizontal concept of policy making whereby governments are actors (albeit the most important) among others – such as financial actors, advocacy groups, non-governmental organisations, etc.

5. However, the rights enshrined in the CRPD have still not been fully realised – in spite of international and European human rights instruments which solemnly declare equality for all human beings. This has negative consequences for the daily lives of people with disabilities. For instance, a lack of access to both their physical (built) and non-physical (policy) environment represents a major barrier to their self-realisation, full integration into society and meaningful participation in democracy. In this regard, local and regional authorities can make a genuine difference by adapting their built environment and their inclusion policies and practices.

6. The Council of Europe recognised the need to promote and protect the rights of persons with disabilities and committed to implementing its Disability Action Plan 2006-2015, adopted by the Committee of Ministers' Recommendation CM/Rec(2006)5. This commitment was developed further in subsequent Committee of Ministers recommendations on various aspects of the situation of people with disabilities, including its Recommendation CM/Rec(2009)8 on achieving full participation through Universal Design; Recommendation CM/Rec (2010)2 on deinstitutionalisation and community living of children with disabilities; Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life; Recommendation CM/Rec(2012)6 on the protection and promotion of the rights of women and girls with disabilities; and Recommendation CM/Rec(2013)2 on ensuring full inclusion of children and young persons with disabilities into society.

⁴ The Convention on the Rights of Persons with Disabilities was adopted by consensus by the UN General Assembly in resolution 61/106 on 13 December 2006. The Convention and its Optional Protocol were opened for signature on 30 March 2007 and entered into force on 3 May 2008 following the deposit of the twentieth instrument of ratification. The Optional Protocol also entered into force on the same date, following the deposit of the tenth instrument of ratification.

7. The European Union has been developing a common legal framework on non-discrimination of people with disabilities since the 1997 Treaty of Amsterdam, whose Article 13 lists disability among the grounds on which it is prohibited to discriminate. This has resulted in a series of directives based on the concept of equal opportunities, and led to the EU Disability Strategy 2010-2020, which focuses on creating a truly barrier-free Europe for persons with disabilities, by removing obstacles to their participation and improving their access to goods and services. The Strategy reflects the EU commitment to implement the UN CRPD, in particular by supplementing at EU level national action in eight identified areas.

8. The present report gives an overview of the actual situation of people with disabilities in Europe, identifies the existing obstacles and barriers to realising their rights, and provides examples of good local and regional strategies, policies and practices in removing these obstacles. The report follows on the Congress' Resolution 227(2007) and Recommendation 208(2007) on access to public spaces and amenities for people with disabilities. It also points to the worsening circumstances of people with impairments caused by the economic crisis, which have been referred to in the Congress' Resolution 357(2013) and Recommendation 340(2013) on "Local and regional authorities responding to the economic crisis",⁵ adopted in October 2013.

9. Furthermore, the report elaborates on the meaning of participation of people with disabilities in political and public life and its significance to them. It points out that the implementation and realisation of the rights of people with disabilities is often hindered not by a lack of financial means but rather by difficulties regarding regulation and co-operation between national and subnational authorities. On the whole, specific measures, target agreements and coordinated action plans are required at all levels, in order to achieve equality of people with disabilities and their common participation in public and political life.

10. In this regard, the report puts forward a number of recommendations on how to promote equal opportunities for people with disabilities at local and regional levels, as well as their integration and participation in political and public (especially social) life.

2. Changing the disability approach: from protection to inclusion

11. An estimated 15% of Europeans live with a disability,⁶ and one in four has a family member with a disability. If those living in institutions are taken into account, the overall incidence is likely to be even higher.⁷ The 2002 ad hoc disability module of the Labour Force Survey⁸ showed that 6.3% of working-age people see themselves as severely restricted, 4.1% somewhat restricted and further 5.2% report some form of disability or a long-term disease.⁹ Furthermore, the likelihood of disability increases with age due to illnesses, accidents or similar causes. In the light of the current ageing of the European population, the occurrence of disability is expected to increase. Therefore, it is crucial to follow a preventive approach and appropriately address the needs of people with disabilities in order to allow them to better integrate into the labour market and society in general.

12. Article 1 of the UN Convention on the Rights of Persons with Disabilities (UN CRPD)¹⁰ states that persons with disabilities are those "who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society". However, European countries use different definitions and criteria for disability according to policy objectives, legislation in force and administrative standards. Definitions of such concepts as inclusion and participation, integration and special education also vary, as do overall measures for the inclusion of people with impairments into society. In some countries, measures to support their inclusion in political and public life are part of national strategies or programmes on disability. Some countries allocate financial resources to national disability organisations to promote their participation in the activities of relevant government bodies and advisory boards, and have established national councils on disability or similar consultative bodies to provide advice to the government on issues relating to disability. In some countries, for example in Norway, there are also local and regional advisory councils on disability issues.

5 CG(25)5FIN, October 2013.

6 Representing 80 million Europeans in the EU.

7 Final Commission staff working document accompanying the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe" Brussels, 15.11.2010 SEC(2010) 1323.

8 APPLICA & CESEP & ALPHAMETRICS, 'Men and Women with Disabilities in the EU: Statistical Analysis of the LFS ad hoc module and the EU- SILC' Final. Report of study undertaken for the European Commission, April 2007.

9 A new LFS has been made in 2011. The results are not yet published.

10 <http://www.un.org/disabilities/convention/conventionfull.shtml>

a. Mainstreaming disability issues in policy making

13. Promoting equality of people with impairments and their participation at the grassroots is challenging indeed. It inevitably requires a functioning community of shared responsibilities involving the local, regional, national and supranational level – in both legal and strategic and financial terms.

14. “Equal opportunities” does not mean that all people can have the same goals and achieve the same results, but that no one should be deprived of a chance to develop their own skills and to bring their specific talents and capacities into society. Providing equal opportunities in any field of life requires a cross-cutting approach and the mainstreaming of disability issues in all policies, from planning to implementation and monitoring.

15. Mainstreaming disability in society is the process whereby full participation of persons with disabilities is enabled and supported within any type of structure and service intended for the general public, such as education, health, employment and social services. The concept of mainstreaming disability in policy-making processes refers to the inclusion of disability issues in the planning, implementation, monitoring, evaluation and revision of policies and actions at all levels of society, locally, regionally, nationally and internationally. Mainstreaming disability in national, regional and local policies is therefore one of the pillars of promoting equal opportunities for people with disabilities, that must lead to their full participation in political and public life.

16. The meaning of participation in the UN CRPD goes beyond a narrow understanding and reflects a paradigm shift in the approach to disability, whereby persons with impairments are not seen as a vulnerable group in need of protection and help from public administrations, service providers or disability experts assuming that they know what is best for this group. Rather, people with disabilities are seen as active players with their unique potential, talents and strengths. The participation of persons with disabilities in policy decision-making is therefore a precondition for changing the approach to disability from inequality to equality, from protection to inclusion.

17. Political participation implies being involved in the decision-making process in those areas that affect people with disabilities. In this regard, the Committee of Ministers’ Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life¹¹ states that “persons with disabilities and/or their representative organisations should be involved in the whole policy cycle: programming, planning, implementing, monitoring and evaluating policies that affect persons with disabilities. The right to vote and to stand for elections guarantees in the first place citizens’ participation in political and public life”.

18. Participation of persons with disabilities in political life can thus be achieved through:

- ensuring persons with disabilities the right to vote and to stand as a candidate in elections,
- a meaningful involvement of people with disabilities in policy decision-making processes which affect their daily lives.

Council of Europe Disability Action Plan 2006-2015

19. The Council of Europe Disability Action Plan 2006-2015 (DAP) recommends a number of measures to improve the situation of people with disabilities in all aspects of everyday life, and suggests concrete actions needed to implement the rights-based approach to disability in many crucial areas such as access to education, employment, transport, infrastructures and buildings, right to vote and political participation, full legal capacity of all persons with disabilities, and a shift from institutional care towards community-based services promoting independent living. The DAP sets the Council of Europe’s policy agenda for promoting the rights and full participation of people with disabilities in society, in order to “benefit from their varied experience and knowledge” in managing public affairs at all stages in the development of legislation, policies and practices.

20. The DAP has contributed to understanding that people with disabilities are no longer to be seen as objects of charity or welfare but to be recognised as active members of society with human and civil rights that must be secured on an equal basis with others. To promote their full participation in society, the DAP highlighted the need to establish mechanisms for working with people with disabilities and their representative organisations, as well as with other NGOs, as equal partners in the design, development and implementation of policies and strategies.

¹¹ Recommendation CM/Rec(2011)14 of the Committee of Ministers to member States on the participation of persons with disabilities in political and public life (Adopted by the Committee of Ministers on 16 November 2011 at the 1126th meeting of the Ministers’ Deputies).

b. Right to vote

21. By exercising the right to vote, people with disabilities assert their individual autonomy and legal personality on an equal basis with other citizens. The right to vote is specifically addressed in Article 29 of the UN CRPD, which guarantees to all persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others through accessible voting ballots and information regarding the voting process and candidates, to ensure that persons with disabilities can make informed decisions.

22. Article 12 of the Convention abolishes guardianship and states that all persons, without exception, have the right to take decisions about their lives, either independently or with a chosen support person. Based on a rights-based approach to disability, which puts individuals at the centre of all decisions affecting them, the issue of legal capacity is being reframed in terms of the support measures that persons with disabilities may need to make decisions in the respect a person's autonomy, will and preferences. Article 12 underlines the importance of developing models based on supported decision making which promote the independence and autonomy of persons with disabilities.

23. The revised Venice Declaration on the Code of Good Practice in Electoral Matters on the Participation of People with Disabilities in Elections,¹² adopted by the Council for Democratic Elections in 2011, states that persons with disabilities should be able to exercise their right to vote and participate in political and public life as elected representatives on an equal basis with other citizens, as participation of all citizens in political and public life and the democratic process is essential for the development of democratic societies.

24. The Committee of Ministers' Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life¹³ calls on member States to prevent any possible discrimination by providing appropriate information and creating an environment which will enable persons with disabilities to "vote and stand for election at all levels; have access to communication, information, procedures and facilities related to their political rights; [...] be closely consulted and actively included in the development and implementation of legislation and policies, and in other decision-making processes concerning issues that affect them".

25. The recommendation states in particular that: "... [member States] should make support available to persons who may need assistance in exercising their legal capacity in various aspects of life, in particular when exercising their right to vote [...]. Where persons with disabilities need assistance in order to vote or express their opinion, member states should ensure that they are allowed to be accompanied by a person of their choice, for example in the voting booth when casting their vote [...]. Member states should ensure that their legislation is devoid, at all levels, of provisions depriving persons with disabilities of the right to vote or stand for election."

26. This position has also been confirmed by a recent decision of the European Court of Human Rights in the case of a Hungarian man with maniac depression deprived of his right to vote, in which the Court found that when "[a] restriction on fundamental rights applies to a particularly vulnerable group in society...such as the mentally disabled, then the State's margin of appreciation is substantially narrower and it must have very weighty reasons for the restrictions in question."¹⁴ Furthermore, Council of European Human Rights Commissioner Thomas Hammarberg stressed in March 2011 that "there is no room for procedures in which judges or medical practitioners would assess the voting competence of a person and then give a green light – or not".

27. Yet in many countries people with intellectual, psycho-social or severe disabilities are excluded from voting. This denial of their right to vote is usually related to restricted legal capacity. In some countries, although the legal incapacitation does not deprive persons under guardianship of their right to vote, the principle of private vote does not allow such persons to be supported in the voting booth by a personal

12 Revised Interpretative Declaration to the Code of Good Practice in Electoral Matters on The Participation of People With Disabilities In Elections. *Adopted by the Council for Democratic Elections at its 39th meeting (Venice, 15 December 2011) and by the Venice Commission at its 89th plenary session (Venice, 16-17 December 2011).*

13 Recommendation CM/Rec(2011)14 of the Committee of Ministers to member States on the participation of persons with disabilities in political and public life (*Adopted by the Committee of Ministers on 16 November 2011 at the 1126th meeting of the Ministers' Deputies*).

14 case of *Alajos Kiss v. Hungary*, n°38832/06, 20 May 2010.

assistant of their choice, preventing them from voting in practice (for example in Italy).¹⁵ Restrictions on legal capacity can also deprive persons with disabilities of their right to be elected to public office.

28. According to the Fundamental Rights Agency,¹⁶ only a few European countries provide constitutional protection to the rights of persons with intellectual and mental disabilities to vote and to be elected, while most of them link the right to political participation with the legal capacity of the individual, and have capacity-related qualifications for voting. Automatic or quasi-automatic exclusion provisions in national legal systems deprive persons with mental health problems and persons with intellectual disabilities under guardianship (“through judicial interdiction”) of their legal capacity. The exercise of legal capacity is therefore a key to the political participation of persons with intellectual and psycho-social disabilities.

Examples of practices from member States

29. In Bulgaria, persons with mental health problems and persons with intellectual disabilities under guardianship (“through judicial interdiction”) are deprived of their legal capacity and therefore excluded from political participation.¹⁷ Political rights are denied to all people under partial and plenary guardianship, regardless of their actual individual level of functional ability.¹⁸ The Hungarian Constitution provides an explicit exception from the universal right to vote – only persons with full legal capacity can exercise it.¹⁹ Persons placed under full or partial guardianship, even if in an unrelated area (such as parental rights, or consent to medical treatment), are excluded from political participation. Similar constitutional provisions can be found in the Czech Republic, Denmark, Estonia, Greece, Lithuania, Luxembourg, Malta, Poland and Portugal, among others.

30. In some other countries, specific laws can have the effect of excluding certain categories of persons from the electoral process. Germany is an example of this approach. The German Federal Electoral Law prevents some citizens from voting based on disability²⁰ since persons for whom a custodian managing all their affairs is appointed, are automatically deprived of the voting right.²¹

31. The Lithuanian legal framework takes a similar approach: all relevant electoral legislation for presidential, parliamentary, municipal or European Parliament elections proscribes voting by persons who have been declared incapable by a court order. Similar provisions are prescribed by law in other countries, including Belgium, the Czech Republic, Denmark, Latvia, Portugal, Romania and Slovakia. In Portugal, the Constitution protects the exercise of the right to vote. However, it qualifies this right with a capacity exception: “*Every citizen who has attained the age of eighteen years shall possess the right to vote, save such incapacities as may be provided for in the general law.*” These capacity requirements mean that persons who have, or who are perceived to have, developmental or psycho-social disabilities are prevented from voting by law, without recourse.

32. In other countries, participation of persons with mental health problems and persons with intellectual disabilities is made possible, but in a limited way. These countries have adopted either an exclusion policy coupled with an individualised assessment (such as Estonia and Malta) or a full participation policy complemented with a specific decision on voting capacity (Spain and France). In the case of Cyprus, persons with intellectual disabilities and persons with mental health problems who could, by law, be struck off the voters’ lists are not being removed.²² However, in the case of a person placed in a psychiatric institution, it is up to the treating psychiatrist to decide whether a patient will be able to exercise his or her right to vote. A patient will regain his or her political rights after discharge from the institution. Currently, more than 200 000 disabled persons in Europe live in closed institutions where they are deprived of their right to vote.

¹⁵ See for example Article 11 of Law No. 180/1978 of 13.05.1978, Italy

¹⁶ FRA, Fundamental Rights Agency: The right to political participation of persons with mental health problems and persons with intellectual disabilities, October 2010

¹⁷ Article 42 (1) of the Bulgarian Constitution.

¹⁸ Article 93, paragraph 2, Article 94 of the Constitution of the Republic of Bulgaria.

¹⁹ Article 70 (5) of the Constitution of Hungary.

²⁰ Article 13 of the Electoral Law states: “A person shall be disqualified from voting if (1) he or she is not eligible to vote owing to a judicial decision, (2) a custodian has been appointed not only through a restraining order to attend to all his or her affairs... (3) he or she is accommodated in a psychiatric hospital under an order pursuant to Article 63 of the Penal Code.”

²¹ Article 13 (2) of the Federal Electoral Law.

²² FRALEX thematic legal study on Cyprus.

33. France and Spain have similar laws. In France, the judge will decide whether to maintain or not an individual's right to vote.²³ In Spain, the express restriction of the right to vote needs to be decided upon by a judge according to the Act on the General Electoral System.²⁴ The situation in the Czech Republic appears to be evolving in a similar direction. Although in principle the right to vote is closely linked to the legal capacity,²⁵ only in case of total legal incapacity should an individual be deprived of his or her right to vote.²⁶ If an individual's capacity is merely limited, all the circumstances of the case have to be considered to determine if she/he enjoys political rights. In Slovenia, in order to restrict the right to vote of an individual, a court needs to confirm that the individual is unable to understand the meaning, purpose and effect of the elections.²⁷ In Norway, the Guardianship Act of 2010, which was a response to Norway signing the CRPD, permits denial of legal capacity based on intellectual disability, dementia and mental illness.

34. Several countries have lifted all restrictions on political participation, thus ensuring full participation in the electoral process of persons with mental health problems and persons with intellectual disabilities. In Austria, Finland, the Netherlands, Italy and Sweden, the right to full participation is entrenched in national legislation. In Austria, a person can only be deprived of his or her right to vote and to be elected in case of a criminal conviction. Both the Netherlands and Italy have repealed laws limiting the voting rights of people under guardianship and now place no limitations on their political participation. However, in Italy the principle of private vote does not allow a person with a disability to be supported in the voting booth by a personal assistant of their choice, which effectively prevents some people from voting.

35. In the United Kingdom, the Electoral Administration Act 2006 abolished the common law rule that a person lacks legal capacity to vote by reason of mental health problems.²⁸ Political parties jointly launched the "Access to Elected Office for Disabled People" strategy to identify and address barriers faced by persons with disabilities who want to enter politics, which includes a fund to defray election costs. Sweden also has universal suffrage, and has eliminated the guardianship system.

c. Influencing policy decisions: involving disabled people's organisations (DPOs)

36. Participation in public and political life means not only voting or standing for election, but also having the right, the means, the space, the opportunity and the support needed to influence policy decisions and measures which affect the lives of people with disabilities. One strategy for making the concerns and experiences of persons with disabilities an integral part of the design, implementation, monitoring and evaluation of policies and programmes is by involving disabled people organisations (DPOs) in policy decision-making.

37. The European Disability Forum's (EDF) motto "Nothing about disabled people without disabled people" reflects this strategy with exactitude. Persons with disabilities need to be included in political life just like any other European citizen – in a democratic society, all members should have a chance to be heard and to shape policies and decisions affecting their lives, so that their needs can be effectively met.

European Disability Forum (EDF)

38. The European Disability Forum (EDF) is the umbrella organisation representing people with disabilities vis-à-vis European institutions and policy-decision makers through a democratic mechanism of election of its leaders and a regular consultation process of its members. EDF is an inclusive movement gathering European NGOs representing persons with specific disabilities, as well as the National Councils on Disability from EU member states and other European countries, such as Albania, "the former Yugoslav Republic of Macedonia", Norway, Iceland, Serbia and Turkey. EDF is led by persons with disabilities or by parents of persons with specific disabilities in need of intense support.

39. The added value of the EDF contribution to EU policies promoting equal opportunities and participation of persons with disabilities is recognised by the European Commission (DG Justice), which supports the EDF participation in policy decision-making processes at the level of EU institutions under its inclusion programme. EDF representatives regularly participate in meetings of the High-Level Group of MSs policy experts on disability in the EU Commission, raising their concerns, contributing to discussions and co-drafting policy documents. EDF is also involved as a full voting member in

23 Article L 5 of the French Electoral Code: <http://www.legifrance.gouv.fr/>

24 Article 3.1. b) of the Act on the General Election System, Official State Journal no. 147 of 20.06.1985.

25 Act No. 247/1995 Coll., Election Act, Section 2.

26 Judgment of the Czech Constitutional Court I.ÚS 557/09 of 18.08.2009.

27 Article 7(2) of the National Assembly Elections Act of 1992, as amended in 2006.

28 Electoral Administration Act 2006 c.22, s73.

the EU Monitoring Framework on the Implementation of the UN CRPD, together with the EU Ombudsman, the Fundamental Rights Agency, the Petition Committee of the EU Parliament and the EU Commission Disability Unit.

40. The European Union also recognises that the empowerment of persons with disabilities needs sufficient financial support. The European Commission therefore supports the running costs of EDF and of a number of EDPOs promoting equal opportunities for people with disabilities through the EU PROGRESS programme.

41. The UN CRPD provides for persons with disabilities and their representative organisations to be actively and directly involved in policy and policy-related processes at all levels. “Representative organisations” means democratic, all-inclusive and independent organisations of people with disabilities. “Actively involved” means structured consultation at all stages of policy making. “Directly involved” means that there is no need for other intermediaries between representative DPOs and public authorities in policy decision-making processes.

42. In line with EU Disability Strategy and with the UN CRPD, the European Commission ensures participation of persons with disabilities, their families, their European representatives and relevant stakeholders in developments of disability policies. At the level of EU institutions, people with disabilities and their representative organisations are consulted through different tools, such as, communications, consultation documents or participation in expert groups.

43. The 2007 Zagreb Declaration,²⁹ adopted by the representatives of Ministries responsible for integration policies and the protection of rights of people with disabilities of Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Italy, Moldova, Romania, Serbia, Slovenia, “the former Yugoslav Republic of Macedonia”, Turkey, and Ukraine recalls, first and foremost, the need for the “involvement of NGOs, in particular representative disability organisations, in all stages of implementation, monitoring and evaluation of the Council of Europe Disability Action Plan at European, national, regional and local levels [...], ensuring their sustainability as organisations of particular interest to promote diversity through the financing of their basic line of activity, considering that extra costs for participation are the first barrier that people with disabilities face”.

3. Improving access to social rights

44. Persons with disabilities in Europe face on a daily basis many barriers regarding their access to social rights and social participation, including the right to education, health care, employment, housing and adequate standard of living. Equality and guaranteed access to essential social services and opportunities are necessary to people with disabilities for their full participation in the life of society. Social services are important tools for the implementation of public policies in the field of social protection, non-discrimination, the fight against poverty and exclusion. They address not only social needs, such as housing and care for children and for the elderly, social security or other types of social protection. In a broad sense, they cover a wider range of services such as education, basic health care, vocational training and access to employment.

a. Accessibility

45. The enjoyment of social rights implies their accessibility. Accessibility is one of the general principles of the UN CRPD, which defines concrete obligations for removing barriers to the accessibility of transport, physical environment, services, public spaces, as well as the accessibility of information and communication. Due to inaccessible public transport, pavements or buildings people with disabilities are not able to move around freely, go to work, or exercise any other daily activity. For people with disabilities, accessibility is an essential precondition to reach the objectives of equal participation and social inclusion, as well as to enjoy and exercise their social rights to education, health care and housing. In some countries, lack of accessibility of ordinary schools is used as a justification not to move towards a fully inclusive education system.

²⁹ The Zagreb Declaration was adopted at the European High Level Conference on The Council of Europe Disability Action Plan 2006-2015, gathering in Zagreb, Republic of Croatia, on 20-21 September 2007, representatives of the European Co-ordination Forum for the Council of Europe Disability Action Plan (CAHPAH), together with international organisations and NGOs.

b. Education and employment

46. Equal access to education remains a problem for people with disabilities, who are more likely to leave school early and without qualifications, and are less likely to progress to third-level education. Education is a necessary condition to achieve independence, social inclusion, full participation, equality and well-being in all areas of community life. Persons with disabilities have the right to receive education of the same quality as any other person, in an environment that takes into account their needs. As a fundamental right, the right of education does not admit exceptions, limitations or hierarchy, and should be based on entitlement, not on privilege. Access to education should not be precluded to any child because he or she is supposed to be uneducable on the grounds of disability or of any other condition.

47. While some persons with disabilities may need specific strategies to be able to learn, there is no reason why these strategies cannot be applied in mainstream settings of inclusive education. On the contrary, in a mainstream educational setting these strategies represent a resource to maximise the learning potential of all pupils. Moreover, the inclusion of students with disabilities in mainstream schools represents a unique opportunity for others to understand and appreciate diversity from an early age, and to develop a sense of social responsibility. An inclusive approach to education is therefore beneficial to all students, whether they have learning difficulties or not.

48. According to the Academic Network of European Disability Experts (ANED)'s report,³⁰ most European countries have shifted, or aim to shift, to inclusive education by reducing the number of special schools. However, the practice of enrolling special education needs (SEN) students in special schools still continues. In many countries educational provision includes special schools for specific impairments. Access to mainstream education tends to be easier for children with specific learning difficulties than for those with other, especially cognitive, impairments. In addition, ANED indicates that investment in special schools remains significant, targeting students with specific impairments or with associated behavioural problems. Some countries provide incentives for parents and students to prefer special schools. Moreover, being enrolled in a mainstream school does not necessarily mean full inclusion within the school. Many countries tend to include disabled students in special classes. The ANED report indicates that disabled students, especially those with learning difficulties, face problems in progressing to upper secondary education. Girls and women with disabilities have higher drop-out rates, higher illiteracy rates and therefore decreased access to employment.

49. In 2006 Autism Europe published an analysis of case law³¹ upholding the right to education of children with disabilities in several European countries, namely France, Germany, Italy, Poland and the United Kingdom. The report showed that, in Italy, approximately 70 legal actions had been lodged by families of students with severe learning disabilities against the public administration from 2002 to 2006,³² despite of an advanced regulatory framework ensuring the right to education and inclusion in mainstream school to children with disabilities. Petitioners claimed that a shortage of support for their children in school represented a violation of the right to education. The court decisions in all cases were in favour of petitioners, recognising a violation of the right to education in the case of insufficient support. All the appeals of the public administration and schools against the court decisions were rejected.

50. However, the complexity of judicial systems and appeal processes in some countries, together with the length of time and expense involved, often deters people from appealing individually and makes them refer to advocacy organisations instead. This is the case, for example, in Poland, where, despite allocated funds and a 'friendly' national legislation that takes into account the rights and needs of children and young persons with disabilities, including with severe learning disabilities, a lack and a low quality of offered services makes the situation of people with autism and their parents extremely problematic.

30 Academic Network of European Disability experts (ANED) - VT/2007/005: Inclusive education for young disabled people in Europe: trends, issues and challenges. A synthesis of evidence from ANED country reports and additional sources. Serge Ebersold (National Higher Institute for training and research on special needs education, INSHEA) with Marie José Schmitt and Mark Priestley. April 2011.

31 Autism & Case Law. Protecting the Right to Education for Children with Autism Spectrum Disorders - Autism-Europe, 2006, with the support of the European Commission, DG V.

32 In the following years the number of legal actions of families of pupils with autism or other severe learning disabilities against schools and the public administrations in Italy amount at some hundred per year.

51. Article 15 of the Revised European Social Charter (CETS No. 163)³³ affirms the right to independence, social integration and participation in the life of the community. To this end, State parties have the obligation to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible, to promote their full social integration and participation in the life of the community. Article 17 of the Charter requires an environment for children and young people that encourages the full development of their personality and their physical and mental capacities, through the establishment and maintenance of sufficient and adequate facilities and services. This article guarantees to children with disabilities the access to education equal to others and arguably more, in circumstances where the effects of ineffective or untimely educational intervention are likely to entail further disability and dependency.

Case before the European Committee of Social Rights

52. In 2002, Autism Europe submitted a collective complaint against France to the European Committee of Social Rights on the grounds of Articles 15, 17 and E of the European Social Charter. The complaint alleged serious deficiencies in the provision of education to people with autism in France. According to Autism Europe, France failed to satisfactorily apply its obligations under the Revised ESC with regard to the right to education of children and adults with autism. In this respect, Autism Europe argued that France did not provide sufficient education opportunities, facilities and services of an adequate standard or quality to children and adults with autism. In addition, Autism Europe claimed that France did not ensure that children and adults with autism enjoyed the right to education in the same way as all other children and adults.

53. In 2003, the European Committee of Social Rights recognised that the access to education of persons with autism was not ensured in France, as the proportion of children with autism being educated in either general or specialised schools in France was much lower than in the case of other children, whether or not disabled. It also acknowledged the chronic shortage of education and support facilities for adults with autism spectrum disorders. On the basis of this evidence, the Committee concluded for a violation by France of Articles 15§1 and 17§1 of the Revised European Social Charter, whether alone or read in combination with Article E. The decision of ECSC confirmed that the implementation of the Social Charter requires the State Parties to take concrete action to give full effect to the rights recognised in the Charter, and that the effective exercise of the right to education must be guaranteed to disabled children and adults through all necessary measures.

54. Access to work is another problem area for people with disabilities. According to the *ad hoc* module of the Labour Force Survey,³⁴ persons with disabilities aged between 16 and 64 are two to three times more likely to be unemployed than non-disabled people. Only 38% of them have an earned income, compared to 64% of non-disabled people. The unemployment level is proportional to the severity of disability, with 78% of persons with severe disabilities remaining outside the labour force.³⁵ Only 16% of those who face work restrictions are provided with some assistance to work. People with disabilities are also more likely to be on temporary contracts and to be paid lower wages than their non-disabled counterparts.

c. Health care

55. Equal access to health care is a key issue in securing basic living conditions for people with disabilities, who encounter a range of barriers when they attempt to access health care services. Affordability (70.5%)³⁶ and a lack of services (52.3%) and transportation (20.5%) in the area are the top three barriers,³⁷ followed by physical, communication, information, and coordination barriers to using health facilities. Negative experiences, including insensitivity or disrespect, may result in distrust in health professionals and failure to seek care. Limited knowledge and understanding of disability among health-care providers sometimes lead to inadequate examinations and uncomfortable or unsafe experiences for people with disabilities.

56. Evidence shows that health promotion interventions such as physical activities seldom target people with disabilities, who are also generally less likely to receive screening and preventive services. Adolescents and adults with disabilities are more likely to be excluded from sex education programmes. The oral health of many people with disabilities is poor, and access to dental care remains limited. Limited access to health

33 The European Social Charter (ESC) of the Council of Europe was adopted in 1961 and guarantees a number of economic and social rights, was revised in 1996 to introduce new rights such as the right to protection against poverty and social exclusion, the right to housing and the right to protection in cases where employment is terminated. Additionally, the revised ESC amended certain rights and improved the protection for people with disabilities.

34 European Labour Force Survey *ad hoc* module on the employment of disabled people (2002).

35 Disability and social exclusion. Swansea University, UK, 2010.

36 Academic Network of European Disability experts (ANED) -The implementation of EU social inclusion and social protection strategies in European countries with reference to equality for disabled people (2009).

37 World Health Organisation: World report on disability, 2011.

promotion has been documented for people with multiple sclerosis, stroke, poliomyelitis, intellectual disabilities and mental health problems. People with mental health conditions, learning or intellectual disabilities, especially those with complex or intense care needs, face particular difficulties in accessing adequate long-term care and support services,³⁸ which contributes to their lower life expectancy.

d. Economic situation

57. Exclusion from full participation in social and economic life, education and work opportunities and barriers to accessing health care, social security and adequate support substantially increase the risk of poverty of persons with disabilities.

58. Poorer educational attainment is a factor in reducing an earnings potential and the likelihood of having a job, alongside other barriers leading to high unemployment rates and significantly lower incomes. Most people with disabilities have dramatically lower incomes than the rest of the population, and families that have a household member with a disability have a lower average level of income. Among people with disabilities, women and elderly people suffer more from poverty and exclusion compared to men and younger people. Most people with intellectual disabilities live below or on the poverty threshold. The high proportion of people with disabilities who live in jobless households is another factor contributing to the higher incidence of poverty among adults with disabilities or long-term illness.

59. Families with disabled members tend to live in poor conditions, relying in most cases on disability benefits. They tend to have a higher burden of financial costs and incur additional costs to achieve a standard of living equivalent to that of non-disabled people. This additional spending may go towards health care services, assistive devices, costlier transportation options, heating, laundry services, special diets, or personal assistance.

60. In turn, poverty perpetuates disability through poor health care and inadequate living and working conditions, especially in the absence of proper social support and accommodation. People living in poverty are at higher risk of serious health problems and accidents due to restricted access to health care, poorer working and living conditions, and denied opportunities that could help them to escape poverty.³⁹

4. Effects of the economic crisis

61. The impact of the economic crisis has further undermined progress towards full realisation of the rights of persons with disabilities. Austerity measures and in particular indiscriminate budgetary cuts to social programmes contribute to exposing people with disabilities to higher risks of exclusion, poverty, discrimination, marginalisation, illiteracy and negative stereotypes.

62. The Congress' Resolution 357(2013) and Recommendation 340(2013) on "Local and regional authorities responding to the economic crisis" highlight the social problems caused by the crisis. People with disabilities are a part of the population suffering from austerity measures taken in response to the crisis, in particular with regard to their education, employment and political participation through representative organisations. In Portugal, for instance, funding for disability organisations has been reduced, decreasing the capacity of people with disabilities to engage in political action. In Ireland, the national representative body of people with disabilities and the Stakeholder Monitoring Group set up to review progress on the National Disability Strategy have been discontinued.

63. The education sector also suffered from budget cuts, which occurred mainly in the countries most affected by the crisis. In particular, funding for support services for mainstreaming projects has been reduced. In Portugal, all special education schools were closed in 2013 while the disbursement of resources for supporting inclusive education was delayed, leaving many children with disabilities without support. In Ireland, mainstream support allocations have been frozen at existing levels and many inclusive education measures, which have been passed into law, have been deferred indefinitely. Mainstream schools have been turning children with disabilities away on the grounds that they do not have the resources to provide them with proper support.

38 Academic Network of European Disability Experts (ANED): The implementation of EU social inclusion and social protection strategies in European countries with reference to equality for disabled people.. Isilda Shima and Ricardo Rodrigues (European Centre for Social Welfare Policy and Research), May 2009.

39 World Bank, 2005. Disability and Development and the World Bank. A Briefing Summary on February 2, 2005.

64. Employment rates significantly decreased during the crisis years as well, especially for people with severe disabilities. While there was some recovery in 2010, employment of people with disabilities is still below pre-crisis levels. Furthermore, budget cuts affected supported employment and vocational rehabilitation programmes as well as sheltered employment enterprises. For example, in the United Kingdom, sheltered employment services are being systematically closed, while in other countries where sheltered workshops are an important element in the employment strategy for people with disabilities, such as Germany and France, many workshops are experiencing significant reductions in their trading incomes.

65. At the same time, the economic crisis should not be used as an excuse for the lack of progress in integration of people with disabilities. For example, Spain, which experienced significant economic difficulties, nevertheless appointed an independent body and established focal points to monitor the national strategy for the implementation of the UN CRPD and collected relevant statistics, which is not the case for some other countries that made only formal arrangements for similar monitoring.

5. Best practices for inclusive participation

a. South Tyrol, Italy: inclusive education

66. In Italy, education has been inclusive for 30 years, and serves as an example for best practice in this area. Article 12 of Law 104/92 states that all pupils with special needs, including those with severe disabilities, have the right to attend mainstream schools at all levels, and according to Law 62/2000 any state or non-state school in Italy that obtains official recognition is obliged to accept any pupil with disabilities, even if they need intensive support.⁴⁰ Thus, there is no board which decides on which school the pupil concerned may attend, but the school is obliged to accept every pupil with a disability.

67. In South Tyrol, a working group composed of teachers, family members and social workers involved with the child's case prepares an Individualised Educational Plan (IEP) based on the child's diagnosis, and periodically checks the general results of its implementation. The results achieved on the didactic part of the Plan are assessed exclusively by the teachers. The IEP is supported by staff and tools that correspond to the type of disability and its severity. For instance, the child receives aid from support teachers who have taken a two years' specialisation course and are paid by the school administration. The municipality may also provide the pupil with an assistant for mobility and personal hygiene at school, and sometimes for home assistance in the afternoon. Furthermore, the child receives free transportation to and from school. The classes have a maximum of 20 pupils, including maximum two pupils with disabilities who take part in the activities of the entire class. At the same time, the IEP may provide time slots during which the pupil leaves the class or carries out activities with the specialised teacher.

68. Those pupils that follow a curriculum in compliance with the ministerial requirements, even simplified or reduced, obtain the same legal assessments as their other schoolmates and a diploma at the end of primary or middle school, except in the most severe cases. In secondary school, pupils with intellectual disabilities follow a differentiated curriculum compared to other pupils. If the competences are comparable, they may receive a regular diploma, even though they are assessed in a differentiated way. If the individual learning goals deviate too much from the general ones, they receive a certificate describing the activities in which they took part and the results achieved.^{41, 42}

b. North Rhine-Westphalia, Germany: inclusive employment

69. Integration companies (in German: *Integrationsunternehmen*) constitute a relatively new instrument to promote the employment of disabled people in North Rhine-Westphalia. Integration companies are private enterprises of the general labour market. Apart from their normal economic activity, they have a social mission, employing people with a severe disability. These people require special support on the labour market due to both their impairment and other circumstances which further complicate their employment (such as their age, long-term unemployment, lacking qualifications, etc.).⁴³

40 DOTCOM: the Disability Online Tool of the Commission; Italy

41 www.unicef.org/ceecis/1.Camerini.ppt

42 [http://www.kreis-](http://www.kreis-offenbach.de/PDF/Panel_03_Gelingende_Inklusion_Praxisbeispiel_Suedtirol_Dr_Ferdigg.PDF?ObjSvrID=1856&ObjID=521&ObjLa=1&Ext=PDF&WTR=1&ts=1291197024)

[offenbach.de/PDF/Panel_03_Gelingende_Inklusion_Praxisbeispiel_Suedtirol_Dr_Ferdigg.PDF?ObjSvrID=1856&ObjID=521&ObjLa=1&Ext=PDF&WTR=1&ts=1291197024](http://www.kreis-offenbach.de/PDF/Panel_03_Gelingende_Inklusion_Praxisbeispiel_Suedtirol_Dr_Ferdigg.PDF?ObjSvrID=1856&ObjID=521&ObjLa=1&Ext=PDF&WTR=1&ts=1291197024)

43 http://www.lvr.de/media/wwwlvrd/soziales/menschenmitbehinderung/arbeitundausbildung/dokumente_229/integrationsprojekte/Foerderung_derrichtlinien-IP_2012.pdf

70. According to the German hiring quota, 5% of the employees of every private business need to be people with impairments. Integration companies, however, hire a proportion of 25% or even up to 50% of people with impairments.⁴⁴ At present, there are approximately 250 integration companies in North Rhine-Westphalia with more than 6,000 employees, of which 2,500 are disabled. They operate in various economic sectors, including for instance social services, commerce, industrial cleaning, horticulture and IT.⁴⁵ They are not necessarily independent businesses. Small firms or even single departments can also become integration companies or, to use a better term, integration projects.⁴⁶

71. Integration companies receive financial support (*Förderpauschalen*) in order to compensate for their additional expenditure. This support complies with the measures for which every employer may apply, and is not supposed to give integration companies an advantage over other businesses; competition is still secured. In addition, the Ministry of Employment, Integration and Social Affairs of the Federal State of North Rhine-Westphalia supports the creation of new jobs within integration companies, providing annually €2.5 million of state loans next to the €2.5 million of municipal funding.⁴⁷

c. Stockholm, Sweden: accessible playgrounds

72. In December 1998, the City of Stockholm launched an “Easy Access” programme of accessibility promotion, aimed at implementing national and international legislation in the field of accessibility/disability, removing by 2010 all barriers to accessibility in the outdoor environment and in city-owned properties, and making Stockholm the world’s most accessible capital city. The programme focused on eliminating “easily removable obstacles” and on improving accessibility of city-owned properties as well as cultural and sporting facilities, and involved DPOs from the outset, in order to identify problems which each category of disabled persons wanted the programme to address. Cooperation with DPOs proceeded mainly through municipal disability councils that follow disability issues within their local authorities.⁴⁸ The City Council allocated annually SKr 100 million for the whole programme.⁴⁹

73. One focus of Easy Access was on rebuilding and improving play areas and action playgrounds to make them accessible to children and parents with functional impairment. This project, carried out in partnership with city districts and their affiliated disability councils and in co-operation with DPOs, involved an inventory of the needed improvements; training programmes for over 500 local government officials, local politicians and consultants; changing the surfacing and reducing variations in level; as well as replacing certain types of equipment and introducing new, accessible facilities such as sandpit supports, ramps, animal sheds, obstacle courses with handrails, accessible paddling pools, special outdoor furniture, special swings or tactile footpaths.⁵⁰ The total budget of the project added up to almost SKr 81 million.⁵¹ As a result, more than 40 playgrounds were improved or totally changed in order to adapt them to children with disabilities.⁵² Moreover, its implementation raised awareness of this issue among both politicians and the general public.

d. Madrid and Extremadura, Spain: raising awareness

74. “Your Education Has No Limits: Develop Your Future” (in Spanish: *Tu formación no tiene límites. Desarrolla tu futuro* or simply *Formación sin Límites*) is a programme aimed at substantially increasing the number of students with disabilities in Spanish universities through educational awareness-raising sessions for secondary education students (14-16 years old) and A-level students with disabilities, as well as parents and teachers.⁵³ This programme, supported by the regional education ministries of the autonomous

44 http://www.lvr.de/media/wwwlvrde/soziales/menschenmitbehinderung/arbeitundausbildung/dokumente_229/integrationsprojekte/Foer_derrichtlinien-IP_2012.pdf

45 http://www.arbeit.nrw.de/arbeit/wege_in_arbeit_finden/integration_unternehmen/praxisbeispiele/index.php

46 For examples of actual integration companies see: http://www.arbeit.nrw.de/arbeit/wege_in_arbeit_finden/integration_unternehmen/praxisbeispiele/index.php (in German).

47 http://www.lvr.de/de/nav_main/soziales_1/menschenmitbehinderung/arbeitundausbildung/integrationsunternehmen/allgemeineinformationen_2/allgemeineinformationen_2.html

48 www.stockholm.se/Global/Frist%c3%a5ende%20webbplatser/Trafikkontoret/Tillg%c3%a4nglighet/Tillg%c3%a4nglighetsprojektet_Stockholm%20-%20staden%20f%c3%b6r%20alla/Stockholm_-_the_city_for_everyone.pdf

49 http://www.un.org/disabilities/documents/best_practices_publication_2011.pdf

50 http://www.un.org/disabilities/documents/best_practices_publication_2011.pdf

51 http://www.un.org/disabilities/documents/best_practices_publication_2011.pdf

52 The City of Stockholm website, www.stockholm.se, provides particulars of more than 200 play areas and adventure playgrounds under the heading “find and compare amenities.” The descriptions include, for example, particulars of the accessibility of each play area and adventure playground, which ones are staffed and the easiest way to get there.

53 <http://www.includ-ed.eu/good-practice/%E2%80%9Cyour-education-has-no-limits-develop-your-future%E2%80%9D>

communities of Madrid and Extremadura as well as the Spanish Ministry of Education, led to 26 awareness-raising events attended by more than 1,200 people.

75. Its pilot phase, developed between November 2010 and May 2011, included a series of information sessions outlining the benefits of higher education, together with testimonials from people with different types of disabilities that successfully completed their higher education and entered the job market in various economic sectors. Presentations were combined with game-based techniques involving all participants to stimulate individual and group reflection, and were complemented with additional information material on education and disability, accessible through an online platform on the Repsol Foundation's website⁵⁴ – which also provides a blog where interested people can exchange their ideas and contributions. In the second phase of the programme, a video inspired by face-to-face informative talks was created to become, together with an accompanying educational guide, a useful tool for teachers in the implementation of a related activity. In the planned next phase, primary and secondary schools from across the country will be contacted and invited to participate in the programme.⁵⁵

e. Czech Republic: inclusive employment

76. In the Czech Republic, several tools have been introduced to support people with disabilities in employment, among which: vocational rehabilitation tailored to the individual needs of a person; a “training for a job” initiative involving special training of a person with a disability for a suitable job based on an agreement with the labour office, and lasting for a maximum of 24 months; specialised retraining courses; sheltered work positions created by an employer for an individual with a disability based on an agreement with the labour office, for at least two years; and sheltered workshops – an employer's work unit in which a minimum of 60% of the employees are persons with disabilities.⁵⁶

77. Employers can receive financial support from the labour office for sheltered work positions and sheltered workshops, and this financial incentive is supposed to support adaptations of workplaces for people with impairments.⁵⁷ Further financial support can be provided through measures targeting flexible work arrangements and special arrangements for sick leave, as well as through special loans and grants when hiring employees with impairments. In addition, persons on disability pension are insured by the state, thus reducing the costs to the employer.⁵⁸

78. Furthermore, under the existing quota system, in enterprises with more than 25 people individuals with disabilities must be at least 4% of the total number of employees; in return, employers pay fewer taxes for disabled employees. As a result, at least 56% of the employers in the Czech Republic employ disabled people, and 37% of the purchased products come from companies with at least 50% disabled employees.⁵⁹ Finally, unlike most other European countries, the Czech Republic does not reduce social assistance proportionally to the income earned when people with disabilities take up paid employment. Therefore, disabled people do not need to worry about regaining social benefits in case their job ends or has to be terminated.⁶⁰

f. European Disability Forum (EDF): a joint project

79. Another example of good practice is the pilot project ‘Achieving disability rights through mainstreaming at regional and local level’, led by the European Disability Forum (EDF) and put into practice between 2005 and 2006, with the financial support of the European Commission, in Belgium, Czech Republic, Denmark, Estonia, Greece, Italy, Latvia, the Netherlands, Slovakia and Sweden. The project was also supported by experts of the Swedish Disability Federation (HSO)⁶¹ and the National Disability Council of the Netherlands (VGPN).⁶²

⁵⁴ www.fundacionrepsol.com

⁵⁵ http://www.includ-ed.eu/sites/default/files/documents/inclusive_education_disability_good_practices_from_around_europe.pdf

⁵⁶ DOTCOM: the Disability Online Tool of the Commission; Czech Republic

⁵⁷ DOTCOM: the Disability Online Tool of the Commission; Czech Republic

⁵⁸ COWI Study Report May 2011: Supported Employment for people with disabilities in the EU and EFTA-EEA

⁵⁹ http://www.bmas.de/SharedDocs/Downloads/DE/PDF-Publikationen/a808-Entschaedigungsrecht-eu-usa-japan.pdf?__blob=publicationFile

⁶⁰ COWI Study Report May 2011: Supported Employment for people with disabilities in the EU and EFTA-EEA

⁶¹ HSO : Svensk Handikappförbunden

⁶² VGPN : Vereniging Gehandicaptten Platform Nederland

80. The project sought to increase the mainstreaming of disability in policy making at regional and local level, based on a human rights approach to disability and on the recognition by national governments of the advisory role of DPOs in decision making on disability. It was carried out with an active contribution from those directly concerned by such policies, and involved developing concrete disability policy plans in each pilot area based on the needs of people with disabilities for support and services. These plans have become useful tools for local DPOs and public authorities. One important benefit from the project was the possibility to spread the method of mainstreaming directly to local municipalities or regions such as in Belgium, Latvia or Italy. The project supported local DPOs in raising awareness in society in general, and among local authorities in particular, of the rights of people with disabilities.

81. By formulating “statements of intention” as part of the project, local governments have become more aware of their responsibility towards citizens with disabilities, and of the need to mainstream disability in all policies, while people with disabilities and their representative organisations have acquired a stronger position as advisors in these policy processes – as illustrated in particular by the reform of regional and local government structures in Denmark. It was also an important exercise in joining forces and building coalitions to work together and influence the decision-making process, as well as in getting support from national umbrella organisations of people with disabilities and establishing a connection between national councils, local organisations and local authorities.

82. As a result, awareness-raising, education and training, co-operation and mutual respect were identified as key elements for planning disability policy and action, which requires appropriate knowledge and experience of the situation of people with disabilities and their needs. The implementation of disability policies has to be supported by a monitoring and an evaluation of the results. The project was regarded as an excellent tool to expand co-operation with local governments when dealing with disability issues and to develop new procedures for elaborating regional policy plans. Participants have also gained from the possibility to share achievements from other regions.

6. Conclusion

83. Within the boundaries of national strategies and policies as well as the existing legislation, local and regional authorities play a crucial role in ensuring equal opportunities and access to social rights for persons with disabilities, in particular through spatial and urban planning, housing, transport, inclusive education, vocational training, employment, health care etc., including by providing individually tailored social support.

84. Local and regional authorities enjoy decision-making autonomy, while the transfer of responsibilities and allocated budgets from the national level implies that disability issues must be effectively mainstreamed in social policies at local and regional levels to address key questions such as the principle of equality, the implementation of human and social rights, the fight against poverty, etc.

85. Mainstreaming disability requires participation of persons with disabilities and their representative organisations in political activity at all levels. People with disabilities constitute a large group within local communities. Public authorities can no longer legitimately claim that they involve civil society adequately in their policy work without strengthening the involvement of one of the largest and most marginalised groups of European citizens. Fair, effective and continuous cooperation with disabilities organisations is not only a moral obligation; it is an added value for better results. A democratic decision-making process actively involving DPOs guarantees not only a greater chance to better meet the needs of persons with disabilities, but also an even better quality of governance and the development of a more equitable society.

86. It is therefore recommended, *inter alia*, that local and regional authorities:

- develop policy instruments and concrete measures for mainstreaming disability into social protection and social inclusion policies and programmes, in line with a human rights approach, paying particular attention to disabled women, children and young people, as well as persons in need of intense support;
- allocate sufficient funding to improving the accessibility of public transport, service infrastructures and built environment as an effective instrument for creating new jobs and boosting the economic growth; and
- support the functioning and activities of DPOs through adequate funding, and ensure that they are broadly representative of all types of disabilities.