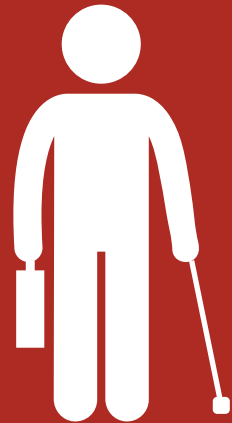


Persons with Disabilities and Ensuring their Right to Participate in Political and Public Life



Approximately
15 per cent of the
people in the world
live with some type
of disability.

WHAT IS DISABILITY?

The concept of disability has evolved significantly over the last decade. Progressively, the approach towards persons with disabilities has shifted from the so-called “medical and charity” approach to a human rights-based approach. This reframes the issue so that persons with disabilities are no longer seen as patients or service receivers who need to be pitied and “fixed” to fit in with society. Rather, persons with disabilities are recognized as full and equal members of their communities who can take active roles in public life, provided they receive the necessary support and assistance.

The UN Convention on the Rights of Persons with Disabilities (UNCRPD) defines persons with disabilities as 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 on an equal basis with others.” Countries in the OSCE region have varying definitions of disability. However, as most participating States have signed and many ratified the UNCRPD, their laws should reflect the approach of the UNCRPD towards defining the concept of disability.

Persons with disabilities are not a homogenous group. Persons with different types of disabilities have different needs and require different forms of assistance and measures to ensure their access and participation.

Common barriers to participation

- Outdated paternalistic approaches and prevailing social stereotypes;
- Lack of access (physical, linguistic and infrastructural, as well as to information);
- Legal and administrative barriers (including restrictions on legal capacity);
- Institutional segregation (in schools, workplaces and public institutions);
- Lack of quality inclusive education;
- Limited support and funding for participation;
- Poverty; and
- Lack of comparable data, disaggregated by disability, and lack of monitoring mechanisms at the national level.

WHAT LANGUAGE SHOULD BE USED?

Terminology related to persons with disabilities is evolving, and there is not always agreement among different organizations and persons with disabilities themselves about which terms to use. While there are some terms that are generally seen as outdated and having negative connotations, it is often not clear what the best language to use is. To ensure that the language chosen is appropriate, it is always best to ask persons with disabilities or their representative organizations for advice. Legal instruments and guiding principles developed by persons with disabilities, such as the UNCRPD or International Language Guidelines on Disability, developed by the International Foundation for Electoral Systems, could also be used for this purpose.

The participation of persons with disabilities in political, public and social life is crucial in order to fight stereotypes, prejudices and exclusion.

WHY IS THE OSCE INVOLVED?

The opportunity to participate in the affairs of one's community, as well as access to equal and inclusive representation, is one of the cornerstones of democracy. In Helsinki in 2008, OSCE participating States recognized that "human rights are best respected in democratic societies, where decisions are taken with maximum transparency and broad participation." To ensure that public involvement is effective, government bodies need to reach out to citizens by establishing mechanisms and providing support for their participation. For some groups, additional efforts might be required, given traditional under-representation in public office and political life, or other specific challenges to participation.

The participation of persons with disabilities in political, public and social life is crucial in order to fight stereotypes, prejudices and exclusion. The exclusion of certain groups from decision-making not only creates more divided and, potentially, less peaceful societies, but also limits the excluded group in protecting its own interests. Ensuring that persons with disabilities play active roles in the political and public life of their societies contributes to strengthening both respect for their rights and mainstreaming disability into the legal and policy framework, to better reflect the needs of all community members. Ensuring their participation also allows societies to benefit from the full potential and talents of all of their members.

CHALLENGES TO PARTICIPATION

According to the most recent World Health Organization World Report on Disability, there are approximately one billion persons with disabilities worldwide. While recent years have seen a shift in attitudes related to disability, the representation of persons with disabilities in political and public life remains disproportionately low across the OSCE region. As few countries collect disability disaggregated data, it is difficult to estimate the actual level of political participation of persons with disabilities in OSCE participating States. However, recent reports, covering some parts of the OSCE region, such as the European Union member states or those in the Council of Europe region note that persons with disabilities are hardly visible on the political stage or taken into consideration in voting processes. ODIHR's consultations with persons with disabilities and their representative organizations from different OSCE participating States suggest that the challenges to political participation faced by persons with disabilities are similar across the OSCE area. This is due to legal, social, economic, physical and other barriers that continue to prevent many citizens from exercising their democratic rights. These multiple barriers result in a situation where persons with disabilities are often not consulted and their views are rarely taken into consideration. Women and youth with disabilities or persons with disabilities belonging to ethnic or other marginalized groups face even greater barriers and obstacles in having their voices heard.



Voter in Mongolia receiving assistance to the ballot box. (OSCE)

The UN Convention on the Rights of Persons with Disabilities has been signed or ratified by 54 out of 57 OSCE participating States.

LEGAL AND POLITICAL COMMITMENTS RELATED TO THE POLITICAL PARTICIPATION OF PERSONS WITH DISABILITIES

The right to political participation of persons with disabilities is recognized in a number of politically and legally binding documents in the OSCE and other international organizations, such as the United Nations, the Council of Europe and the European Union. OSCE participating States emphasized the importance of political participation of persons with disabilities in the Moscow Document in 1991, where they agreed “to take steps to ensure the equal opportunity of such persons for persons with disabilities to participate fully in the life of their society;” and “to promote the appropriate participation of such persons in decision-making in fields concerning them”. This followed the recognition, in the OSCE Copenhagen document of 1990, of “the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.”

Full and effective participation and inclusion of persons with disabilities in society is one of the underlining principles of the UNCRPD, adopted in 2006. Article 29 of the UNCRPD specifically prescribes the right to political participation. It requires states to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives. This includes the right and opportunity for persons with

disabilities to vote and be elected. It also requires states to actively promote an environment in which persons with disabilities can participate fully in the conduct of public affairs, also by encouraging the participation of persons with disabilities in non-governmental organizations, associations and political parties.



Dastan Bekesev, member of the Kyrgyz parliament speaking at the ODIHR's experts' meeting on Political Participation of Persons with Disabilities in Skopje, 22 June 2017.

WHAT IS NEEDED TO ENSURE THAT PERSONS WITH DISABILITIES CAN TAKE AN ACTIVE ROLE IN POLITICAL AND PUBLIC LIFE?

The exercise of the right to political participation is closely linked to a number of preconditions that should be in place to allow persons with disabilities to take an active role in their countries. For example, political participation is not possible in an environment that is not accessible to persons with disabilities, such as where no arrangements are made to allow persons with physical impairments to vote or no sign language interpretation is provided to ensure access to information for deaf persons. Similarly, persons living in institutions will be less able to take an active role in their societies than those living in the community. Also, a lack of quality inclusive education often limits a person's ability to fully reach her or his potential and participate in political life. It is important to recognize the connection between different rights when working to ensure the full participation of persons with disabilities in political and public life.

Ensuring accessibility

Accessibility is a precondition for the participation of persons with disabilities in all areas of political and public life, including in elections, democratic institutions, public meetings and other forms of civic engagement.

An "accessible environment" means that information, infrastructure, transport, public meetings, democratic institutions,

polling stations and electoral materials are available and accessible to persons with various types of disabilities: physical, mental, intellectual or sensory. This includes developing materials in easy-to-read formats, Braille, providing subtitles, audio descriptions and ensuring that sign language interpretation is available.

In addition, "reasonable accommodation" should be provided for persons with all kinds of disabilities, not only adjustments for persons with physical impairments. The definition of reasonable accommodation is included in the UNCRPD. It means providing the necessary individual support or adjustment that would allow a person with a disability to play an active role in society, for example, in the labour market or in political life. This would include, for instance, providing a personal assistant to allow a person with a disability to work in a national parliament.

The state has a duty to provide such assistance, unless it imposes a disproportionate or undue burden, in addition to ensuring that general accessibility measures are in place.



Participants at an ODIHR organized high-level seminar on strengthening participation of persons with disabilities in political and public life, Helsinki, 31 October 2016

Collecting data

Collecting data is crucial to measuring the progress achieved in all areas affecting the rights of persons with disabilities, including with respect to their participation in political and public life. At the national level, comprehensive, sex- and impairment-disaggregated data are necessary to direct immediate action, as well as to monitor, and correct where needed, interventions and progress achieved over time.

Removing legal barriers

In many OSCE participating States, the political participation of persons with disabilities is affected by laws that permit limitations on legal capacity, including political rights. Limitation of legal capacity in practical terms means that a person can no longer make decisions in certain areas of her or his life, and a guardian is appointed to exercise these rights on the individual's behalf. UNCPRD does

not support such limitations. Article 12 recognizes that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life, and invites states to introduce “supported” rather than “substituted” decision-making. Supported decision-making means that a person receives the assistance necessary to make important life decisions, including when exercising the right to vote. This might mean that a chosen support person could, for example, assist a person with an intellectual disability by providing information on elections in an accessible and understandable way.

Raising awareness

Raising public awareness and combating stereotypes, prejudices and harmful practices against persons with disabilities is essential to increasing their representation and visibility in all aspects of public life, including in the media, public office,

national parliaments and political parties. General public awareness raising efforts should be complemented by targeted activities and initiatives to promote greater understanding about ensuring the participation of persons with disabilities in specific institutions of particular importance, including in legislative and executive structures.

Increasing political participation in national parliaments and political parties

Political parties are often referred to as the “gatekeepers” to participation in political life, including in national parliaments and municipal assemblies. To increase parties’ outreach to persons with various types of disabilities, both as candidates and voters, first steps would include providing political party programmes, manifestos and other information in accessible formats, including in easy to read, audio, large-font formats, and by using sign language interpretation. Similarly, parliaments should be encouraged to lead by example, by making their committees and public sessions fully accessible and by providing reports and other information in accessible formats, both offline and online.

In addition, discussions with political parties and national parliaments are crucial to increasing awareness of the importance of making their structures more inclusive for persons with various types of disabilities. Such initiatives should be organized together with persons with disabilities and their representative organizations.

Finally, individual support mechanisms, including financial means to compensate

for expenses associated with disability, should be provided to allow candidates with disabilities to run for public positions. At the same time, stronger co-operation among different members of parliament would ensure greater focus on disability issues. One example at the European Union level is the platform provided by the Disability Intergroup of the European Parliament.

Creating an enabling environment

OSCE participating States should engage with and consult persons with disabilities through their representative organizations (organizations run by persons with disabilities) in decision-making processes, especially on matters that concern them directly. The creation of an environment where such engagement is possible requires several preconditions, including appropriate legal and policy frameworks, the establishment of mechanisms for co-operation, and support for organizations representing persons with disabilities (including capacity-building and financial assistance). This, for example, includes adopting laws that recognize the right to political participation of persons with disabilities and that prohibit discrimination on the grounds of disability. It also means making reference to political participation in countries’ national action plans and strategies on disability. Established mechanisms of co-operation should ensure that persons with disabilities and their representative organizations can effectively participate and contribute in the lawmaking and policy-making processes in their countries.

WHAT IS ODIHR DOING TO PROMOTE THE RIGHTS OF PERSONS WITH DISABILITIES?

The ODIHR project “Our Right to Participate – Promoting the Participation of Persons with Disabilities in Political and Public Life in the OSCE Region” aims to raise awareness of and promote the political participation of persons with disabilities. The project focuses on increasing the representation of persons with disabilities in national parliaments and political parties, raising awareness of and mainstreaming the participation of persons with disabilities, and strengthening consultation mechanisms between national governments and disabled persons’

organizations. The project is being implemented in close co-operation with persons with disabilities and their representative organizations.

Election Observation

ODIHR’s election observation missions and teams have a responsibility to assess the electoral participation of persons with disabilities, in line with OSCE commitments and international standards and obligations. Given the evolving nature of international treaties and jurisprudence on persons with disabilities, and the lack

Kalle Könkkölä,
Executive Director
of the Threshold
Association,
Finland, speaking
at an HDIM
side-event on
Participation of
Persons with
Disabilities in
Political and Public
Life, Warsaw, 20
September 2016



of a systematic methodology on how to observe this element of the election process, ODIHR has developed a *Handbook on Observing and Promoting the Electoral Participation of Persons with Disabilities*. The purpose of the handbook is to provide better guidance to ODIHR election observation missions and teams on how to approach the assessment of the participation of persons with disabilities in elections as part of the overall observation of an election. It may also be useful for a wider readership interested in the topic. Among the guiding principles for the development of the handbook is the understanding that promoting participation of persons with disabilities in elections will contribute to their greater inclusion in political and public life.

Addressing disability hate crime

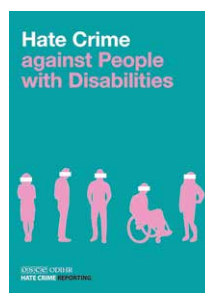
In addition to promoting the political and electoral participation of persons with disabilities, ODIHR also works on the prevention of hate crimes against persons with disabilities. Criminal law in many OSCE participating States makes targeting persons with disabilities an aggravating circumstance in the commission of any crime. Such an approach, based on a consideration of all persons with disabilities as *a priori* vulnerable, builds on the “medical” construction of disability and, therefore, runs counter to the UNCRPD. ODIHR supports addressing crimes targeting persons with disabilities as disability hate crimes. Under this model, it is the prejudicial or bias motivation of offenders that matters, not the actual impairment of the victim.

ODIHR’s reporting on hate crimes across the OSCE region shows that 22 participating States have included disability as a

protected characteristic in their hate crime provisions. In 2015 however, the police in only eight states were able to specifically record cases of disability hate crime as a separate category, and the number of states that have prosecuted or passed judgments in such cases is similarly low. This situation helps explain, and is also a reflection of, the high level of under-reporting of disability hate crime to the authorities.

ODIHR has, therefore, made improving national responses to disability hate crime one of its priorities. The Office has developed dedicated training modules on disability hate crime and integrated them in our hate crime training for police officers and prosecutors.

An ODIHR factsheet on *Hate Crimes against People with Disabilities* provides more information on the phenomenon of disability hate crime and is available at <http://www.osce.org/odihr/hate-crime-against-people-with-disabilities>.



For detailed information about ODIHRs initiatives supporting persons with disabilities and to view its full range of resources and publications, please visit:
<http://www.osce.org/odihr/democratic-governance>

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