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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**DRAFT REVISED INTERPRETATIVE DECLARATION
TO THE CODE OF GOOD PRACTICE IN ELECTORAL MATTERS
ON THE PARTICIPATION
OF PEOPLE WITH DISABILITIES IN ELECTIONS**

**This document has been classified restricted on the date of issue. Unless the Venice Commission decides otherwise, it will be declassified a year after its issue according to the rules set up in Resolution CM/Res(2001)6 on access to Council of Europe documents.*

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

1. People with disabilities should therefore be able to exercise their right to vote and participate in political and public life as elected representatives on an equal basis with other citizens. The participation of all citizens in political and public life and the democratic process is essential for the development of democratic societies.

II. THE FOLLOWING COMPLETES THE PRINCIPLES STATED IN THE CODE

1. Universal suffrage

2. Universal suffrage is a fundamental principle of the European Electoral Heritage. People with disabilities may not be discriminated against in this regard, in conformity with Article 29 of the Convention of the United Nations on the Rights of Persons with Disabilities¹ and the case-law of the European Court of Human Rights.²

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

4. The application of Universal Design principles³ and direct and/or indirect participation of the user in all design stages are effective means for improving the accessibility of polling stations and election procedures to cast one’s vote and for getting access to information on elections.

2. Equal suffrage

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

¹ The Convention on the Rights of Persons with Disabilities was adopted on 13 December 2006 by the United Nations in New York.

² European Court of Human Rights, case of *Kiss v. Hungary*, application No. 38832/06, judgment 20 May 2010. See in particular par. 43-44, with a reference to Article 29 of the UN Convention.

³ Recommendation CM/Rec(2009)8 of the Committee of Ministers to member states on achieving full participation through Universal Design: Universal Design is a strategy which aims to make the design and composition of different environments, products, communication, information technology and services accessible and understandable to, as well as usable by, everyone, to the greatest extent in the most independent and natural manner possible, preferably without the need for adaptation or specialised solutions. The terms “design for all”, “integral accessibility”, “accessible design”, “inclusive design”, “barrier-free design”, “transgenerational design” and “accessibility for all” are regarded as converging towards the term “Universal Design” used in this text.

3. Free suffrage

6. In the duty to “enable voters to know the lists and candidates standing for elections” (The Code, item I.3.1.b.ii), the public authorities must ensure that the above information is available and accessible, to the greatest extent possible and taking due account of the principle of reasonable accommodation,⁴ in all necessary alternative formats under restriction of commensurability, legal regulation and realistic feasibility. The information provided shall be easy to read and to understand.

4. Secret suffrage

7. The right of people with disabilities to vote by secret ballot should be protected, inter alia, by “guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing them to use assistance technologies and/or to be assisted in voting by a person of their own choice⁵” in conditions which ensure that the chosen person does not exercise undue influence.

⁴ Article 2 - Definitions of the United Nations Convention on the Rights of Persons with Disabilities; “reasonable accommodation” means necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, to ensure to people with disabilities the enjoyment of human rights and fundamental freedoms on an equal basis with others.

⁵ (Article 29 (iii) of the United Nations Convention on the Rights of Persons with Disabilities; cf. item II.2 above, and the Code, item I.4.b).