

**Human Rights of Persons with Disabilities -
Human Rights Council resolution 16/15;
Questionnaire by the office of the
United Nations High Commissioner for Human Rights**

1. Are there any restrictions on the right of persons with disabilities to vote and be elected? If so, what are those restrictions?

In accordance with the constitutional principle of general elections, persons with disabilities may naturally also vote and be elected in elections at federal, state and municipal level (Articles 28 and 38 of the Basic Law). The same principle extends to European elections (section 1 of the European Elections Act [Europawahlgesetz]).

Persons for whom a custodian has been appointed to take care of his/her affairs in whole, and not only by a temporary order (cf. Art. 12 on the law on custodianship), or who are in a psychiatric hospital on the basis of a court order because of an unlawful act (section 63 of the Criminal Code) committed in a state of incapacity to be adjudged guilty (section 20 of the Criminal Code) (section 13 of the Federal Elections Act [BWahlG]) are however excluded from the right to vote, and hence may also not hold elective office. As a result of the highly-specific definition of exclusion contained in the Federal Elections Act (only a judicial order for custodianship in all matters leads to exclusion from the right to vote; custodianship in part is not sufficient for exclusion from suffrage), the group of individuals concerned is kept as small as possible. The provision only covers those cases in which citizens are unable to take a highly-personal decision on who to vote for on their own responsibility.

The Election Acts of the Federation and the federal states (*Länder*), moreover, contain a number of provisions regulating participation by persons with disabilities in elections.

Forinstance:

- Polling stations are to be selected and equipped in such a way that the entire electorate, in particular persons with disabilities, is enabled to take part in the elections.
- The electorate is informed which polling stations are barrier-free.
- Voters who are unable to mark the voting slip or to fold or place it in the ballot box may avail themselves of the assistance of another person.

- Blind voters or those with a visual handicap may use ballot templates to mark the ballot slip.
- Special polling districts are formed for voting for hospitals, old people's homes and long-term care homes, as well as for similar facilities with a larger number of voters.
- Election organisations should provide a variety of information on the Internet in a barrier-free form.

2. What are the steps taken by your government to ensure that persons with disabilities participate in political and public life?

In Germany, everyone has the right to found clubs and associations.¹ Positive and negative freedom of association is guaranteed. It makes no difference whether a person is disabled or not. Positive freedom of association guarantees the individual right of every disabled person to form and become actively involved in associations. Negative freedom of association implies that disabled person have the right not to form an association, to stay away or resign from existing associations.

Political participation takes place at many levels in different forms, and involves various procedures, including procedures by which public authorities or political parties consult citizens, requesting their views or proposals, as well as procedures allowing citizens to put forward complaints and suggestions. Increasingly, the Internet is used for these purposes (e-participation). The Accessible Information Technology Ordinance (BITV) provides that online processes offered by federal authorities must be barrier-free. Therefore, the Federal Ministry of Labour and Social Affairs has commissioned a comprehensive study on the usability and suitability of selected online participation platforms for people with disabilities at federal, Land and local level. Based on the results of the study a guide on the implementation of suitable, barrier-free online participation platforms for people with disabilities will be developed.

¹ For German nationals freedom of association derives from Article 9 of the Basic Law, for foreign nationals it is guaranteed by section 1 of the Act on Associations [Vereinsgesetz].

3. What steps has your government taken and what mechanism exist:

- a) **to ensure close and active consultation with persons with disabilities and their representative organisations in decision-making processes, including those related to the development of legislation and policy?**

As early as 2009 the Federal Government decided in its coalition agreement to draw up an action plan for the implementation of the UN Convention on the Rights of People with Disabilities. The action plan which was adopted by the federal cabinet on 6 July 2011 sets out the measures the Federal Governments intends to adopt by 2021 to facilitate the further development of self-determined participation of people with disabilities. From the very beginning, the Federal Government has attached great importance to the active involvement of DPOs in the process of implementing the UN Convention on the Rights of Persons with Disabilities and drawing up the Federal Government's National Action Plan. But also before the entry into force of the UN Convention, DPOs have been actively involved in political decision-making processes, for example, in the drafting of Book Nine of the German Social Code and the Act on Equal Opportunities for Persons with Disabilities.

- b) **to promote participation in non-governmental organisations and associations concerned with public and political life?**

Health funds and their associations are supporting self-help groups and organisations dealing with preventive health issues and the rehabilitation of insured persons. Support is also given to self-help contact points. With the participation of self-help organisations, the central organisation of health funds (Bund der Krankenkassen) adopts principles on self-help promotion and the distribution of funding between the different levels and areas of support. Support may be granted in the form of flatrate subsidies or project funding.

To make available specific support for the training and employment of persons with disabilities a compensation fund for interregional projects to enhance workforce participation of disabled persons was set up at the Federal Ministry of Labour and Social Affairs. The projects supported by the fund include in particular projects to facilitate the participation in working life of individual groups of disabled persons.

c) **to promote organisations of persons with disabilities at international, national, regional and local levels?**

A Federal Government Commissioner for Matters relating to Disabled Persons is appointed for each term of Parliament. The Commissioner's task is to see to it that the Federal Government's responsibility to ensure equal living conditions for disabled and non-disabled persons is met in all areas of social life. This ensures that the needs of people with disabilities are taken into account in all the relevant policy areas.

Moreover, an Advisory Council for the Participation of Persons with Disabilities was put in place at the Ministry of Labour and Social Affairs, advising the Ministry on issues of participation and supporting its coordinating functions.

In addition, all federal states have appointed their own Commissioners for matters relating to disabled persons endowed with similar tasks and competences. In many districts, cities and municipalities full-time or honorary disability commissioners and disabled persons advisory committees have been appointed to specifically address matters concerning disabled citizens at local level.

At international and national level the Federal Government regularly supports projects and events organised by DPOs. Last year, for example, the Federal Government provided financial and conceptual support to the Federal Association of *Lebenshilfe* for People with Intellectual Disabilities as a contribution to its preparations for the 15th World Congress of Inclusion International which took place in Berlin. In the same way the federal states support above all the regional DPOs at state or local level.

4. How are persons with disabilities and their representative organisations involved in monitoring the Convention?

In Germany, the Federal Ministry of Labour and Social Affairs acts as focal point for matters related to the implementation of the Convention. Focal points have also been established at state level.

The Federal Government Commissioner for matters relating to people with disabilities functions as governmental coordination mechanism. For Germany the coordination mechanism is one of the most important instruments to monitor and support the implementation of the Convention. Its main purpose is to ensure that people with disabilities and their associations and organisations as well as the broader civil society are involved in

the process of implementation. For long-term strategic support in implementation an Inclusion Advisory Council was set up which forms the core of the coordination body. It is assisted by four technical committees providing specialised input in four different subject areas. Regular exchange of information and active cooperation takes place between the Advisory Council and the Committees. The Advisory Council is responsible for communication and external representation of the coordination mechanism.

The Inclusion Advisory Council is composed of a majority of people with disabilities plus one representative of the governmental focal point, one representative of the Conference of Land Disability Commissioners and one representative of the monitoring body. According to Article 33 paragraph 1 of the Convention it is the task of the Advisory Council to support CRPD implementation. In this perspective it guarantees the flow of information both to the focal point in the Federal Ministry of Labour and Social Affairs and to the civil society and as far as possible to the federal states. Moreover, it actively pursues PR activities and coordinates the work of the technical committees. In addition to its role as an information and discussion forum the coordination mechanism functions as an interface between the civil society, the focal point and the monitoring body. The Federal Government Commissioner has deliberately chosen an open process for the Advisory Council's and the committees' self-definition and the detailed description of their tasks. The aim is above all to give disabled persons an opportunity to express their own expectations, wishes and ideas, as experts of their own needs, and to play a role in designing the coordination mechanism. Therefore, a definite catalogue of tasks to be assumed by the coordination mechanism will be developed by all participants together in the course of this process.

The Federal Government has assigned the tasks of monitoring and implementation to the German Institute for Human Rights. The German Institute performs its tasks in accordance with the Paris Principles. The required independence is guaranteed by the fact that the Institute is not subject to directives from policy makers and the civil society and by the pluralistic composition of its members.

5. Are statistics collected in relation to the participation of persons with disabilities in political and public life? Please provide relevant statistics and data if possible.

In the past, the Federal Government's "Report on the Situation of People with Disabilities", which it has to prepare once in every term of Parliament, has often received little public attention, and has often been criticised as not sufficiently informative, in particular because it did not contain an indicator-based evaluation of disability policy. Therefore, the disability

report will be given a new indicator-based format. The Federal Ministry of Labour and Social Affairs will publish data on the participation of people with disabilities in political and public life in the next national report that comes out in autumn 2012.

The main Indicators will be:

- Membership in a political party, trade-union or NGO
- Being embedded in circles of friends or acquaintances
- Participation in leisure-time-activities/extramural activities

6. Is your government involved in international cooperation programmes related to promoting political rights of persons with disabilities? Please describe the ways the programmes are inclusive of and accessible to persons with disabilities.

German development policy promotes the inclusion of the rights of people with disabilities in development projects both at intergovernmental level and in cooperation with international organisations, NGOs and disability organisations.

By supporting independent national and regional human rights institutions, such as human rights commissions and ombudsmen, the Federal Government also in its partner countries advocates the notion that CRDP implementation should be monitored and that deficits in compliance with governments' implementation duty should be identified in a constructive manner. DPOs will be involved in the further implementation of inclusive projects.