## Submission to the Office of the High Commissioner for Human Rights on the "The right of persons with disabilities to participate in decision-making” by “Hope for Children” UNCRC Policy Center

Submission edited by:

Dr. Antonis St. Stylianou, Senior Advisory Board Member of “Hope for Children” UNCRC Policy Center, Christina Markou, Child Protection Officer of “Hope for Children” UNCRC Policy Center, and Stella Panayiotou, Associate Lawyer of “Hope for Children” UNCRC Policy Center

Contributions:

Anna Benedek, Granyak Iren and Tibor Kereki, Law students

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**PREFACE**

The present report outlines the submission of “Hope for Children” UNCRC Policy Center from Cyprus, in relation to the study of the Special Rapporteur on the rights of persons with disabilities of the Office of the High Commissioner for Human Rights, Ms. Catalina Devandas-Aguilar, on the right of persons with disabilities to participate in decision-making.

“Hope for Children” UNCRC Policy Center is an International Independent Humanitarian Institution based in Nicosia, Cyprus; founded on the standards and principles of the UN Convention on the Rights of the Child and European Union Law. The Organization focuses on humanitarian and development policy in relation to the advocacy and promotion of children’s rights; through research, through the design and implementation of grassroots programmes, and by offering advisory services to governments and international organizations.

The core objective of the Organization consists in promoting and protecting the rights of children. We aim to realize our fundamental target through the implementation of a variety of projects on a National, European and Global level.

The Mission Statement of the Organization reads: “Hope for Children” UNCRC Policy Center aims to advocate and to protect children’s rights based on the standards and principles of the UN Convention on the Rights of the Child and European Union Law. Its’ doors are open to all children regardless of religious, cultural and other background. “Hope for Children” UNCRC Policy Center also aims to improve the quality of life of socially disadvantaged children, such as asylum seekers, refugees and children in war-torn areas. Through education and social mobilization, “Hope for Children” UNCRC Policy Center works on raising awareness and promoting respect towards all cultures, religions and diversities within a society.

Joseph Varughese,

Director - General, “Hope For Children” UNCRC Policy Center.

1. **INTRODUCTION**

The present submission constitutes a combined study for the right of persons with disabilities to participate in decision-making for Cyprus and Hungary. It provides information and comments in relation to the national legislative and policy framework about the implementation of the UN Convention on the Rights of Persons with Disabilities, to which both states are contracting parties. Inter alia, it enlists indicative national statutes, national plans, and good practices that promote the participation of disabled persons in decision-making in accordance to the international standards set by the relevant UN Conventions, as well as advocacy Organizations of persons with disabilities which actively engage with the matter.

It is accordingly divided by country. The second chapter is centered on the Cypriot policy approach and the most recent developments in Cyprus. In particular, this submission outlines the national Action Plan, the relevant technical Committees established by the government, and the Pancyprian Council for Persons with Disabilities, which constitutes the main implementing mechanism for the Convention.

The third chapter is developed in context of the key national legislative provisions of Hungary; the Civil Code and procedure in relation to the participation of persons with disabilities in decision-making. In addition, this submission includes a number of reports and a list of government and non-government Organizations that engage with the subject of the study; and includes specific references to child-related actions and criticisms of the current framework.

The fourth Chapter draws a number of conclusions and outlines where national approaches fall short of ensuring the rights of persons with disabilities to participate effectively in decision- making.

1. **THE REPUBLIC OF CYPRUS**

The independence of the Republic of Cyprus dates back to the 16th of August 1960. Prior to that date, the island was a British colony. Therefore, even though the Republic has its own independent legal framework; the overall structure and development is directly linked to the British case law, which up to this day constitutes a source of law. Lastly, the Cypriot legal system is of a monist one. Consequently, international law, such as the UN Convention on the Rights of Persons with Disabilities, is directly applicable within the domestic legal order.

Article 31 of the Constitution of the Republic of Cyprus provides for every citizen the right to vote in any election held under the Constitution or any such law, and Article 28 intends to ensure that equality is upheld.

The Republic of Cyprus has signed and ratified the UN Convention on the Rights of Persons with Disabilities on 4.3.2011 (hereafter “The Convention”). The Convention imposes general and specific obligations for a number of issues to the states; and article 2 provides the definitions for the terminology used therein.

Article 29 of the Convention, addresses the Participation of persons with disabilities in political and public life and affairs specifically. It provides that signatory countries are to ensure the equal, effective and full participation of persons with disabilities in political and public life. It also makes explicit reference to elections, voting procedures and promotes the formation of representative Organizations.

In addition, Article 34 establishes a Committee on the Rights of Persons with Disabilities and Articles 35 up to 39 provide specifically for its functions, which include inter alia, the monitoring of the member states’ implementation progress through reports submitted to the Secretary-General of the UN. The first report is to be submitted two years after the entry into force of the present Convention for the State Party concerned, and after that a report must be submitted at least every four years.

Having in mind that the submission includes child-related legislation, it should be also noted that Cyprus has also signed the UN Convention on the Rights of the Child on October 5, 1990 and ratified it by Law No. 243 of 1990.

The Government of the Republic of Cyprus has authorized by a decision of the Council of Ministers, following the ratification of the UN Convention on the Rights of Persons with Disabilities, by the Convention on the Rights of Persons with Disabilities and Related Issues (Ratification) Law of 2011, N.8 (III)/ 2011, the Department for Social Inclusion of Persons with Disabilities as the focal point for the implementation of the Convention and has established the Pancyprian Council for Persons with Disabilities, which operates as the coordinating mechanism to facilitate the actions for the implementation of the Convention. In 2012, the Council approved the establishment of 8 Thematic Technical Committees, working on: equality, non-discrimination, awareness and statistics; accessibility of the physical and building environment; accessibility of transportation; information accessibility; independent living, social inclusion, mobility and social protection; education and vocational training; health and rehabilitation; employment. Further, according to the Council of Ministers, Decision dated 9 May 2012, the Ombudsman and Commissioner for the Protection of Human Rights / Equality Authority was nominated as the Independent Mechanism for the promotion, protection and monitoring of the Convention.

Following the above developments, the Republic of Cyprus has adopted for the first time a National Action Plan (Action Plan 2013-2015) for the implementation of the UN Convention on the Rights of Persons with Disabilities, the purpose of which is to promote the realization of human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability.

Also, according to the Council of Minister’s Decision no. 66.763 of 2008, a Department for Social Inclusion of Persons with Disabilities has been established as from 1 January 2009, within the Ministry of Labour and Social Insurance. The purpose of this specialized Department is the provision of empowerment and support to persons with disabilities by promoting innovative actions and implementing programmes, in order to protect and ensure their equal enjoyment of human rights and achieve their full and effective participation in society. The mission of the Department is to undertake, as a central agent, the formulation, co-ordination and implementation of social policies for persons with disabilities, in co-operation with the co-responsible Ministries and Services as well as the Pancyprian Confederation of the Organizations of Persons with Disabilities.

Under the National Action Plan, there are 39 specific actions that are being implemented. These are:

1. Further modernization of the legislative framework

2. Publications that promote awareness and improve the knowledge and respect for persons with disabilities

3. Audiovisual information / reasonable accommodation

4. Online information

5. Collection of statistical data on disability

6. Researches

7. Amendment and improvement of the Streets and Buildings Law and the Streets and Buildings Regulations

8. Improve accessibility of existing buildings

9. Improving the accessibility of the existing road network

10. Improving the accessibility in tourist areas

11. Development of infrastructure for accessibility of the existing Project “Western Coastal Pedestrian paths of Paphos – Phase A”

12. Action on publicity and awareness on accessibility issues in cooperation with semi-governmental organizations

13. Improving accessibility of public buses especially for persons with visual and motor disabilities

14. Modernizing Disability Parking Card Scheme (Blue Badge) for persons with disabilities

15. Completion of the conversion of the Government websites to become accessible by people with disabilities

16. Ensure accessibility of essential e-services provided to citizens by the Public Service

17. Inclusion of requirement for compliment with the Internet Web Content Accessibility Guidelines 2.0 at the minimum level in tender documents in regards with the development of e-services and web application systems

18. Development of national legislation regulating the accessibility of public websites

19. Enhancing e-inclusion of persons with disabilities by simplifying procedures for grants to purchase computers and special software programs

20. Enhancing access to information

21. Formulation of institutional framework for deinstitutionalization and independent / supported living

22. Modernization of the legislation

23. Deinstitutionalization of 8 person from Chamber 14 of the Athalassa Mental Health Hospital

24. Enhancing participation in leisure, sports, cultural and other events and activities

25. Transition from school to vocational rehabilitation

26. Prevocational training: Upgrade Prevocational Training Programs implemented by the Ministry of Education and Culture

27. Coordinating services for early childhood intervention

28. Training of adults with disabilities

29. Teachers training

30. Informing of students about the rights of persons with disabilities

31. Information and training regarding the needs and rights of persons with disabilities

32. Policy Formulation for Physical Rehabilitation

33. Enhancing medication

34. Upgrading of orthotics and prosthetics workshop

35. Modernization and upgrading of the vocational rehabilitation for people with disabilities sector

36. Implementation of the institution for "social enterprises and cooperatives"

37. Upgrading of the "Supported Employment Scheme”

39. Scheme for the placement of 1000 unemployed young university graduates for the acquisition of work experience in companies / organizations

The Pancyprian Confederation of the Organizations of Persons with Disabilities, as the representative organization of disabled people, participates in decision-making and represents people with disabilities in the dialogue with the State as the Official Partner. The Confederation has established an action plan and exercises systematic control of legislation and regulations and puts forward proposals on issues such as: education, vocational training, employment, the information society and knowledge, et al.

In accordance with Article 3 of its Constitution, the Confederation aims are:

a) Research and development activities on the causes of disability and the living conditions and needs of disabled people and coordination of such activities.

b) The promotion and coordination of activities for education, rehabilitation and welfare of disabled people, including job placement and social emancipation.

c) The promotion and encouragement of taking measures for the prevention and treatment of various disabilities, the relief from physical or mental suffering deprivation and to remove the causes of such deprivation.

d) Educating and coordinating or encouraging activities, problems, rehabilitation and welfare of disabled people.

e) Fund raising for the causes of the Confederation.

f) The promotion of cooperation between disability organizations to encourage the development of related activities and to take relevant measures.

i) The promotion, encouragement, regulation, coordination and cooperation on, formulation and submission of requests for disability organizations to state authorities and international organizations on social policy activities and legislative promotion of solving problems of the disabled.

h) To promote, encourage and develop participation methods, activities on policies for persons with disabilities.

According to a Report on citizenship and political participation prepared by the Academic Network of European Disability Experts, which was established by the European Commission in 2008 and published in 2013, that examines the legal framework for citizenship in EU/EEA countries, relating to the accessibility of voting in elections for disabled people. A concern that was raised relates to “the necessity of providing ‘supported decision making’ for individuals with learning difficulties so as to enhance their stake and participation in all aspects of political and social life. The interrelated issue of ‘deinstitutionalization’ of disabled people should also be prioritised in order to enhance autonomous living and independent decision making.”

Cyprus has submitted its first report for the implementation of the UN Convention on the Rights of Persons with Disabilities, after the following actions, which evidence the level of participation in decision-making:

* 81 Contact Points in 65 state agencies responsible for disability issues were appointed (55 from Administrations / Departments / Services of Ministries, 8 from Semi-Governmental Organizations and 2 from Local Authorities) and workshops and information sessions were held to inform them about the aims of the Committees and their terms of reference.
* The synthesis of the Thematic Technical Committees was completed with the definition of 10 representatives of the Cyprus Confederation of Organisations of the Disabled and seven representatives of the Office of the Ombudsman and Human Rights as observers.
* Data and information from all government agencies involved with disability issues were collected through their contributions that were given in a specific form designed exclusively for this purpose.
* Discussions and consultations on the content of the report were held, in the sessions of the eight Thematic Technical Committees, which were established in the framework of the Coordination Mechanism in order to facilitate the operations of the Convention during the period February - July 2013.
* Consent from the competent Services for the implementation of actions was secured.
* The Report and the National Action Plan were adopted by the Pancyprian Council for Persons with Disabilities as the Coordinating Mechanism to facilitate the operations of the Convention. The Cyprus Confederation of Organisations of the Disabled, which participates in the Pancyprian Council for Persons with Disabilities, reserved its right to submit its own report (Shadow Report) to the UN Committee on the Rights of Persons with Disabilities. The Report also includes opinions of the Ombudsman and Human Rights, as the Independent Mechanism for monitoring the implementation of the Convention.
* The Report and the National Action Plan were approved by the Council of Ministers on 26.07.2013 and were submitted to the UN Committee on the Rights of Persons with Disabilities.

Further legislative provisions include Article 3 (1) of The Process for Public Consultation and Other Services on issues concerning Disabled Persons Act of 2006 (N.143 (I) / 2006), the Cyprus Confederation of Organizations of the Disabled is established as the Official Corporate Partner of the State in matters relating to persons with disabilities. Furthermore, Article 3 (2) and (3) require that representatives of the Confederation are invited by each Service "when discussing" and/or taking decisions on issues and/or when dealing with issues in any way, directly or indirectly, related to persons with disabilities and, therefore, their public/social, professional and everyday lives. Also, a government grant is provided for the Confederation in the annual State Budget.

In addition, Part III of the Persons with Disabilities Act of 2000 (127 (I) / 2000) establishes the Pancyprian Council for Persons with Disabilities. Article 44 of the Public Service Law of 1990 (1/1990), provides that the manner in which a person with disabilities is to be treated, when considered for a position in the public sector, can involve consultation with an expert. Article 5(2) of the Persons with Intellectual Disability Act of 1989 (117/1989), states that the private members of the Committee established thereafter must be nominated by specified Ministers and appointed by the close family members of the disabled person.

Specifically in relation to children, the Education of Children with Disabilities Law of 1999 (N.113 (I) / 1999) and the Regulations of 186/2001, address the evaluation procedure for a child with disabilities. It provides that the parents of the child can be present and actively participate during the evaluation procedure, and can also invite a specialist of their choice to join in.

There is also a number of organizations which actively engage with the participation of persons with disabilities in the political and public life, such as the Cyprus Paraplegic Organization, the Committee for the Protection of the Rights of People with a Mental Handicap, the Pancyprian Organisation for the Rehabilitation of Disabled, and the Pancyprian Organization of the Blind.

1. **HUNGARY**

National Legislation

2007. XCII. Act on the rights of disabled persons (proclamation of the Convention on the rights of disabled persons and Protocol)

1998. XXVI. Act on the rights of disabled persons and enforcement of their equal rights

1991. LXIV Act on the rights of children (proclamation of the convention of the rights of children New York, 20 November 1989.)

2013. CLV. Act on advocated decision-making

15. 2015. (IV. 7.) Parliamentary Resolution on the National Program for Disability (2015-2025)

**Act on Persons with Disabilities**

Definition of disabled person according to the Act of Disability

“Article 4. For the purposes of this act a) a person with a disability: a person who is fully or severely deprived of his or her sensory – particularly visual –, aural, locomotory or mental capacities, or is considerably limited in his or her ability to communicate, and this is a source of permanent disadvantage for his or her active participation in society.”

The Fot. defines the purpose of disability-related action (legislation, policy work, action plans) in Hungary: “Article 1. The purpose of this act is to define the rights of persons with disabilities, and the means to enforce these rights, as well as to regulate the complex rehabilitation that is to be rendered to persons with disabilities, and to ensure through these that persons with disabilities have equal opportunities, can live independently and can actively participate in society.”

The act discusses the rights of persons with disabilities in these fields:

• Environment; • Communication; • Equal access to public services; • Transport; • Support services, aids and equipment

Equal opportunities are to be provided in the following fields: • Healthcare; • Education, training; • Employment; • Dwelling, inclusion in the community, independent living; • Culture, sport.

Comparing these purposes with those of the Convention it is conspicuous that the Hungarian act completely disregards civil and political rights, and recognizes only very special, social and economic rights.

**CIVIL CODE on the Legal Capacity of persons of Legal Age**

https://tdziegler.files.wordpress.com/2014/06/civil\_code.pdf

LIMITING THE LEGAL CAPACITY OF PERSONS OF LEGAL AGE Section 2:19 [Conservatorship]

(1) Persons of legal age shall be of partially limited capacity if a court has placed them in the custody of a conservator to that effect.

(2) Persons of legal age whose necessary discretionary ability for conducting their affairs is - owing to their mental disorder - permanently or persistently diminished shall be placed by court order under conservatorship which partially limits their competency in respect of certain specific matters, where this is deemed justified due to his individual circumstances and family and social ties.

(3) In its ruling invoking partially limited legal competency the court shall specify the matters of a personal or financial nature, in which legal capacity is limited.

(4) Legal capacity may not be limited to any extent, where protection of the rights of the person affected can be ensured by other means without prejudice to legal capacity.

(5) Persons of partially limited legal capacity shall be able to make legal statements in all matters concerning which the court did not limit their competency in its ruling invoking partially limited legal competency.

[Guardianship]

Persons of legal age whom the court has placed under guardianship fully limiting their legal competency are deemed legally incompetent. (2) Persons of legal age whose necessary discretionary ability for conducting their affairs is - owing to their mental disorder - completely lacking shall be placed by court order under guardianship that fully limits their competency in all matters of life, where this is deemed justified due to their individual circumstances and family and social ties.

Title XI, Book Two

[Appointment of an advocate]

(1) Where a person of legal age is in need of assistance due to the partial loss of his/her discretionary ability in certain matters, the guardian authority shall appoint an advocate upon his/her request with a view to avoiding conservatorship invoking limited legal competency.

(2) If in an action for the placement of a person under conservatorship or guardianship the court considers that there is no justification to limit that person’s legal competency even partially, yet he/she is in need of assistance due to the partial loss of his/her discretionary ability in certain matters, the court shall dismiss the action for placement under conservatorship or guardianship, and shall deliver its decision to the guardian authority. The advocate is appointed by the guardian authority based on the court ruling, in agreement with the person affected.

(3) The appointment of an advocate shall not affect the legal competency of a person of legal age.

The legislators were also mindful of those who do not have access, because of their isolation, to trustful relationships that enable supported decision-making. These persons include those who have live in institutions for extended periods. They were to have access to the instrument of the professional supporter, which again does not affect their capacity to act. It differs from supported decision-making in that it is not based on a trustful relation, and is prescribed by a court of law. The advance directive is another new instrument. This enables a person still in full possession of their capacity to act to provide for future occasions when their disability prevents them from making competent decisions. The advance directive can be disregarded only in exceptional cases. When solutions that do not affect the capacity to act are proven to be insufficient, it is possible to restrict the capacity to act for certain types of cases. For the action of the person under guardianship to be valid in those types of cases that the court specified, the guardian’s approval is needed. In case of a disagreement, the guardianship authority will decide. As opposed to earlier rules, the guardian is appointed by the court. Another new provision is that the guardian must act not by promoting the “best interest” of the person under guardianship, but by respecting their will and choices.

2013. CLV. Act on the advocated decision-making

Appointment of an advocate

The appointment of an advocate does not affect the legal capacity of the person with disability, and the ability to make valid statements autonomously. The guardianship authority decides on appointing the advocate.

If the disabled person is opposed to the appointment of an advocate- for any reasons- the guardianship authority must not appoint one.

The advocate is not entitled to make legal statement in the name of the person of concern.

The advocate enables the person of concern to make legal statements by giving all necessary information, and provides help to make decisions as well as contributing in the decision making by being present.

<http://www.complex.hu/kzldat/t1300252.htm/t1300252_35.htm>

<http://www.complex.hu/kzldat/t1300155.htm/t1300155.htm>

**Caucus report on Civil Code regarding legal capacity of disabled persons**

A person’s psycho-social disability and mental disability enable the court to place the person under a guardianship that prevents the person from exercising their capacity to act, if the person’s ability to conduct their affairs is diminished permanently and considerably. Persons under plenary guardianship cannot act – apart from immaterial affairs of everyday life –, but their guardian will act for them. The principles of the guardian’s action are not provided for by the law. Such substitute decision-making contravenes Paragraphs 3 and 4 of Article 12, because divesting someone of their capacity to act cannot be considered an instrument that supports the exercise of legal capacity (the capacity to act). It does not respect the person’s will and choices. In practice, a professional guardian may have more than 100 persons under their guardianship.

Under such circumstances, it is impossible to know and follow the will and choices of every person under guardianship. Current law makes the general restriction of the capacity to act possible. In such cases, the person under guardianship and the guardian must act together. In case of a disagreement, the guardianship authority will decide. Though in theory this type of guardianship requires that the person under guardianship be involved in the making of decisions that concern him or her, the global nature of the restriction contravenes the principle of proportionality, and thus cannot be considered an instrument that helps the exercise of the capacity to act.

B. The new Civil Code (came into force in 2013) Plenary guardianship and guardianship with general limitations are revoked. According to the transitional provisions, those who were under plenary guardianship prior to 1 May 2010 were to be placed under guardianship with general limitations upon the coming into force of the new Civil Code, and within five years, the court was to establish whether they have the capacity to act, or in what types of cases they required guardianship. The new Act introduced supported decision-making, which does not affect the capacity to act. It is an instrument based on trust, which helps the exercise of the capacity to act in accordance with Article 12.3 of the Convention, and which the court is not to prescribe but to acknowledge and legalize. With this, the new Ptk. reinterpreted the concept of the capacity to act: every adult person who is able to conduct their affairs on their own or with help is deemed to have the capacity to act. Such interpretation is in harmony with the norm of Article 12.

**Representative organizations**

**National Disability Council** (*Országos Fogyatékosügyi Tanács* – OFT): An official council, maintained by the government. Members are made up of government representatives, disability organisations and other stakeholder organisations (in Hungarian).

* [**National Federation of (Physically) Disabled Persons' Associations**](http://meosz.hu/index_23_05.php)(Mozgáskorlátozottak Egyesületeinek Országos Szövetsége – MEOSZ): Association representing the interest of people with physical disabilities in Hungary.
* [**Hungarian Association for Persons with Intellectual** **Disability**](http://www.efoesz.hu/index.php?m=en) (*Értelmi Fogyatékossággal Élők és Segítőik Országos Érdekvédelmi Szövetségének* – ÉFOÉSZ): The umbrella body for the various organisations concerned with the care and rehabilitation of people with intellectual disability in Hungary.
* [National Association of the Deaf and Hard of Hearing](http://sinosz.hu/?q=media-megjelenesek/sinosz-materials-english) (*Siketek és Nagyothallók Országos Szövetsége* – SINOSZ): Association providing support and assistance for deaf and hard of hearing children, adults, and their families.
* [Down Foundation](http://www.downalapitvany.hu/) *(*Down Alapítvány*):  Organisation seeking to ensure that as many children with Down Syndrome as possible are brought up within their own families and live an independent life.*
* [National Autism Association](http://www.aosz.hu/) *(*Autisták Országos Szövetsége*– AOSZ): An umbrella body for the various organisations representing the interests of autistic people and their families (in Hungarian).*
* [The Hungarian Federation of the Blind and Partially Sighted](http://www.mvgyosz.hu/en) *(*Magyar Vakok és Gyengénlátók Országos Szövetsége*– MVGYOSZ): An umbrella body representing the interests of blind and partially sighted people, providing support, assistance and a range of resources.*
* [**National Deafblind** Association](http://www.siketvak.hu/index.php?lang=en) *(*Siketvakok Országos Egyesülete*– SOE):  Association representing the interests of people with deafblind disability. Offers training for sign language interpreters and special education teachers, as well as education and therapy for deafblind children (in Hungarian).*

**National Public Foundation for Disabled Children**

*Programmes developed by the National Public Foundation for Disabled Children, aim to bring together various organisations operating in different sectors that impact the lives of people with disabilities.*

**National Disability Council**

Persons with disabilities are involved in legislative and policy planning primarily through the National Disability Council [Országos Fogyatékosügyi Tanács, OFT]. What with the exclusivity of the OFT’s composition, this fails to provide for effective participation. It is necessary – depending on the nature of the specific legislative or policy objective – to acknowledge and involve more flexible and more inclusive forums. The Disability Caucus is one such forum. Although children with disabilities are not involved systematically at all.

**National Public Foundation for Disabled Children**

Amongst its wide array of programmes, the National Public Foundation for Disabled Children supports social integration projects targeting children with intellectual disabilities and their families, as well as both mainstream and special schools for children with intellectual disabilities.

The government fails to provide effective involvement of persons with disabilities in legislative and policy planning, and to support the establishment and acknowledgement of inclusive forums.

Programs aiming to improve conditions of disabled persons

* Hungarian Sign Language Program Office
* Department of National Subsidy Management
* Education & Service Development Team
* National & International Relations Department
* DI Office (Supporting the national deinstitutionalization process (DI) by operating the Mentor Network)
* Rehabilitation-Value-Change (RÉV) Project Office (System-wide training and service development model program, in order to improve the labor market situation of people with changed workability – “TÁMOP” Social Renewal Operational Program) and National Methodology Center (OMK) (The National Methodology Center provides professional, methodological, IT background and support in the field of employment rehabilitation to the National Labor Market Service and Professional Support Network.)
* Eight Points Project Office (The complex innovation of the National Provider Network, Professional Consulting Network and Coordination Center for people with autism – “TÁMOP” Social Renewal Operational Program)

**Equal Opportunities Program**

The “Equal Opportunities Programme” aims to raise public awareness; inform the public of available options for legal redress of infringements; improve the employability of disadvantaged groups; increase participation of disadvantaged groups in decision-making processes; and involve employers. Equal Treatment Act 2003, art. 34.

**15. 2015. (IV. 7.) Parliamentary Resolution on the National Program for Disability (2015-2025)**

Autonomy

Disabled people are entitled to rights, autonomous, independent persons. Therefore, state and government actions should not foremost foster the institutions and social contribution system to make decisions instead of disabled, but to enable disabled persons to practice their own rights independently while preserving their dignity. The principle of autonomy is to be enhanced considering the freedom of opinion and freedom to act independently.

Full and efficient participation in society

The core value and purpose of all government measures regarding disabled persons should be in accordance with the principle of equal rights in order to ensure that persons with disabilities-in all areas and at all stages of life- are able to practice their social, political and economic rights on the same basis like others.

Nothing about us without us

Implementing legislation and programs affecting disabled persons must ensure that the opportunity is given to disabled persons to express their opinion about the given state or government action in their own name or through their representatives chosen by them.

Subsidiarity

Benefits and services relating to persons with disabilities should be organized in such a way that they regionally as well as considering the levels of administration and decision making are as close as possible to the persons of concern, while minimalizing the administrative burdens imposed on them and providing effective support.

**Caucus Report, 2010**

<http://mdac.info/sites/mdac.info/files/english_crpd_alternative_report.pdf>

Call on the government to review all relevant legislation (and proposed legislation) to ensure that all persons with disabilities have the right to vote and participate in public life on an equal basis with others. Electoral law should ensure that all persons with disabilities have the right to vote and full access to political participation.

As to the right to holding office and the right to petition, the current disability-based discrimination should be abolished.

The Hungarian legislation does not recognize the requirement of reasonable accommodation. This makes it particularly difficult to apply legal remedies for discrimination because persons with disabilities often suffer discrimination through the denial of reasonable accommodation. The absence of the concept and requirement of reasonable accommodation in the Hungarian law is responsible for a legal obstacle in the fields of accessibility as well.

The Disability Act mentions active participation and makes integration, rather than inclusion, the guiding principle. Integration does not require reasonable accommodation for the personal needs of the person with disability, without which integration will not lead to an inclusive society in which the effective equality of persons with disabilities is guaranteed. At present, reasonable accommodation is a technical term and content used only by disability activists and a few professionals, and it is typically absent from policies or programmes. The failure of policies and programs is due to the fact that they prioritise integration rather than inclusion.

Without the acknowledgment of the right of persons with disabilities to reasonable accommodation, integration fails to meet the Convention’s requirements for social inclusion.

The exclusivity of the NCD’s composition fails to provide for effective participation. It is necessary – depending on the nature of the specific legislative or policy objective – to acknowledge and involve more flexible and more inclusive forums. The Disability Caucus is one such forum. Children with disabilities, for example, are not involved systematically at all.

Hungary designated the National Disability Council (NDC) to promote, protect and monitor the implementation of the Convention. The National Disability Council is an advisory body consisting of representatives of ministries and organizations of persons with disabilities. Due to its legal status and composition, however, the National Disability Council does not meet the criteria of independence and proficiency that are outlined in Article 33 (2) of the Convention and the Paris Principles.

The National Disability Council cannot be considered an independent mechanism, as it also represents the government. The National Disability Council should not be designated, as it is now, as the independent framework responsible for monitoring.

It is a cause for concern that instead of the Convention’s alternative report – prepared by the Hungarian disability caucus 17 principle of full and effective participation and inclusion, Hungarian law mentions active participation, and makes integration, rather than inclusion, the guiding principle. Integration does not require reasonable accommodation for the personal needs of the person with disability, without which integration will not lead to an inclusive society in which the effective equality of persons with disabilities is guaranteed.

Government is urged to remedy the breach of the Convention caused by the fact that persons under guardianship automatically lose their right to vote. This requires the amendment of the Constitution, election laws and provisions on the legal capacity in accordance with the principles of the new Civil Code which did not enter into force. This, incidentally, is something that Hungary has been obliged to do by a recent decision of the European Court of Human Rights. The complex accessibility of elections has not been realized, and calls upon the Government to take the appropriate measures in legislation, policies and programs to ensure accessibility. The Caucus calls upon the political parties to take into consideration, during their election campaigns, the special communication needs of persons with disabilities.

**Children with disabilities**

Act XXXI of 1997 on the protection of children and guardianship administration [1997. évi XXXI. törvény a gyermekek védelmérôl és a gyámügyi igazgatásról, Gyer.] recognizes respect for the evolving capacities of children (Article 8.1–3).

Article 6.3 of the Gyer. states: “Children with disabilities and children who are permanently ill have the right to special care that promotes the development of their capacities and personality.”

In Hungary, numerous legislative measures provide legal guarantees for children and particularly for children with disabilities. Also, numerous child protection programs have come into being, in some cases attaining outstanding results in their target areas. With respect to individual Articles, we will elaborate on legislative measures as well as practical issues which must be addressed in the future in a targeted manner at the governmental level in order to improve the situation of children with disabilities in Hungary.

**National Bodies**

**Report of Ombudsman**

In his report he found that with respect to persons with disabilities electoral procedures, establishments and materials are inadequate, are not accessible, and do not comply with the criterion of being easily understandable. These problems cause infringements to the right to general, equal, and direct vote by secret ballot; as well as with respect to the prohibition of discrimination; and the equal opportunity principle. Furthermore, it fails to comply with Article 29 of the UN Convention on the Rights of Persons with Disabilities which guarantees persons with disabilities the right to participate in political life and public affairs.” The Ombudsman’s authority does not extend to establishing non-compliance and the issuing recommendations around the deprivation of the right to vote for persons who are under guardianship or in prison because this is governed by the Hungarian Constitution.

**Ministry of Human Capacities**

The **Equal Opportunities of Persons with Disabilities Non-profit Ltd. (FSZK)** was established by the Hungarian State with the aim of promoting equal rights, social integration and complex rehabilitation of persons with disabilities. Its mission is to contribute to create a society where everyone with disability can participate equally as a full citizen.

FSZK is the legal successor of the Equal Opportunities of Persons with Disabilities Public Foundation, which was reorganized as of December 21, 2011 by the Minister of Human Resources. FSZK has more than 10 years of experience in operating with about 90 employees. It runs a Professional Knowledge Centre, works on the systematic development of the support and institution system involved in complex rehabilitation. Further, it assists integration with initiating policy level changes, as well as research and development projects. FSZK also provides a wide variety of training programs and consultancy services.

1. **CONCLUSIONS**

Taking everything into account, it is evident that both Cyprus and Hungary have responded promptly to the need to include persons with disabilities in decision-making procedures. Firstly, they have both signed the relevant international instruments and they have enacted national legislative provisions to ratify their content. National policies and initiatives were set in motion, reports were submitted, and Organizations have been formulated and have taken action. Nonetheless, both states have yet to materialize their obligation. For instance, in Hungary, effective participation is lacking.

In relation to Cyprus, it is noted that although progress has been made, the National Action Plan does not specify which legislative provisions need to be re-evaluated in compliance to the country’s international obligations. In addition, it appears that while there is a number of statutory material on the right to vote and even a member of the Parliament who is visually disabled, there is insufficient focus on the right of a disabled person to be voted, resulting in an imbalanced representation of all disability groups.

All in all, concrete reports on the implementation of the obligation for both states are lacking. Both member states need to devote more time and make genuine efforts to effectively guarantee the rights of disabled persons to participate in decision-making; approaching criticism in a constructive manner.