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Guidelines for civil participation in political decision making

*(Adopted by the Committee of Ministers on 27 September 2017
at the 1295th meeting of the Ministers' Deputies)*

The Committee of Ministers,

Considering that the participation of citizens is at the very heart of the idea of democracy;
Considering that representative democracy, based on the right of citizens to freely elect their representatives at reasonable intervals, is part of the common heritage of member States;

Considering that direct democracy, based on the right to take part in elections and to launch and sign popular initiatives and requests for referendums, is a long-standing tradition in certain member States;

Considering that participatory democracy, based on the right to seek to determine or to influence the exercise of a public authority's powers and responsibilities, contributes to representative and direct democracy and that the right to civil participation in political decision-making should be secured to individuals, non-governmental organisations (NGOs) and civil society at large;

Emphasising that responsibility and accountability for taking decisions ultimately rests with the public authority that has the democratic legitimacy to do so;

Having regard to texts of the Council of Europe that contribute to creating an environment for civil participation, such as:

- the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and its additional protocols;
- the Council of Europe Convention on Access to Official Documents (CETS No. 205);
- Recommendation Rec(2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision-making;
- Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe;
- the 2009 Code of Good Practice for Civil Participation in the Decision-Making Process;

Having regard also to texts that define the right to participate:

- the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

- Recommendation Rec(2001)19 of the Committee of Ministers to member States on the participation of citizens in local public life;

Aware of the need to further strengthen the trust in and credibility of our democratic institutions and confident that widening the opportunities for civil participation in decision-making processes is one of the ways to achieve that aim;

Encouraging member States to draw on the views, information and expertise provided through participation and to develop a culture of effective participation based on respect for human rights, democracy and the rule of law,

Adopts the following guidelines and invites member States to make the widest possible use of them and to ensure their dissemination, in particular among all authorities responsible for or otherwise involved with civil participation in political decision making.

I. Purpose

1. The purpose of these guidelines is to strengthen and facilitate participation by individuals, NGOs and civil society at large in political decision making.

II. Definitions

2. For the purpose of these guidelines, the following definitions are used:
 - a. "civil participation": the engagement of individuals, NGOs and civil society at large in decision-making processes by public authorities. Civil participation in political decision-making is distinct from political activities in terms of direct engagement with political parties and from lobbying in relation to business interests;
 - b. "decision-making process": the development, adoption, implementation, evaluation and reformulation of a policy document, a strategy, a law or a regulation at national, regional or local level, or any process where a decision is made that affects the public, or a segment thereof, by a public authority invested with the power to do so;
 - c. "non-governmental organisations" (NGOs): voluntary self-governing bodies or organisations established to pursue the essentially non-profit-making objectives of their founders or members as set out in Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe. They may include, for example, voluntary groups, non-profit organisations, associations, foundations, charities or geographic or interest-based community and advocacy groups;
 - d. "civil society at large": the ensemble of individuals and organised, less organised and informal groups through which they contribute to society or express their views and opinions, including when raising issues regarding human rights violations, corruption and other misconduct or expressing critical comments. Such organised or less organised groups may include professional and grass-roots organisations, universities and research centres, religious and non-denominational organisations and human rights defenders;
 - e. "public authority": any executive, legislative or administrative body at national, regional or local level, including individuals, exercising executive power or administrative functions.

III. Conditions and principles

Conditions enabling civil participation



3. Participation requires all involved to honestly and sincerely exchange viewpoints to ensure that the positions of civil society are effectively taken into consideration by public authorities with decision-making powers. Conditions for effective civil participation therefore include:
- a. respect for human rights and fundamental freedoms, the rule of law, adherence to fundamental democratic principles, political commitment, clear procedures, shared spaces for dialogue and good conditions overall for a vital, pluralistic and sustainable civil society;
 - b. creation and maintenance of an enabling environment by member States, comprising a political framework, a legal framework (where appropriate), and a practical framework, guaranteeing individuals, NGOs and civil society at large effective rights of freedom of association, freedom of assembly, freedom of expression and freedom of information;
 - c. recognition and protection of and support for the role of civil society in a pluralist democracy, its functions in terms of advocacy and monitoring of public affairs and its contribution to building a diverse and vibrant society.

Principles

4. Civil participation should be promoted and enabled by the following principles, which apply to all actors involved in civil participation in political decision-making:
- a. mutual respect between all actors as the basis for honest interaction and mutual trust;
 - b. respect for the independence of NGOs whether their opinions are consistent with those of the public authorities or not;
 - c. respect for the position of public authorities with whom responsibility and accountability for decision making lies;
 - d. openness, transparency and accountability;
 - e. responsiveness, with all actors providing appropriate feedback;
 - f. non-discrimination and inclusiveness so that all voices, including those of the less privileged and most vulnerable, can be heard and taken into account;
 - g. gender equality and equal participation of all groups including those with particular interests and needs, such as young people, the elderly, people with disabilities or minorities;
 - h. accessibility through the use of clear language and appropriate means of participation, offline or online, and on any device.

IV. Fundamentals of civil participation in political decision-making

5. Civil participation should seek to provide, collect and channel views of individuals, directly or via NGOs and/or representatives of civil society, providing a substantive exchange of information and opinions which inform the decision-making process so that public needs are met.
6. Civil participation should be guaranteed by appropriate, structured and transparent means including, where necessary, legal or regulatory measures which could include provisions for handling requests for recourse or redress in the event of non-compliance.

Any limitations or restrictions to participation should be clearly defined in this framework and be in accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms and the relevant case law of the European Court of Human Rights.

7. Different phases of the decision-making process being undertaken by the public authority invested with the necessary power should be open to civil participation.
8. Information should be easily accessible, transparent and available to the public except where classified for reasons clearly specified by law or restricted for reasons of data protection in line with the relevant Council of Europe conventions and other international obligations.
9. Adequate information should be provided in a timely manner allowing for substantive input while decisions are still reversible.
10. Public authorities should plan and manage civil participation and clearly define the objectives, actors, process and timeline, as well as the methods used.
11. Public authorities should provide up-to-date, comprehensive information about the decision-making process and procedures for participation.
12. Public authorities should seek to avoid unduly burdening individuals, NGOs and civil society at large in the course of civil participation and may take appropriate action to facilitate participation.
13. Where public authorities provide some support to individuals, NGOs or civil society at large in the course of civil participation, they should do so in a manner which avoids influencing the outcome of the participation exercise in any way.
14. Where necessary, co-ordinating bodies should be established or developed with a view to setting up and managing civil participation processes, subject to their roles being clearly defined, emphasised and supported.
15. Public authorities and NGOs may wish to conclude framework agreements for co-operation to support civil participation.
16. The timeline allocated should provide, other than in exceptional and well-defined circumstances, sufficient opportunity to properly prepare and submit constructive contributions. Similarly, recourse to restricted procedures and/or procedures involving a limited number of actors should be made only in exceptional circumstances and for which reasons are given.
17. The scope and method of civil participation should be commensurate with the issue at stake. Public authorities should solicit the widest possible range of contributions, including from marginalised, disadvantaged and vulnerable groups of people.
18. Public authorities should not make a final decision until the end of the civil participation process which they have launched, unless exceptional circumstances so require and subject to clear justifications being given.

V. Types of civil participation

19. Civil participation in decision making can take different forms, including: provision of information, consultation, dialogue and active involvement.^[1]

Provision of information



20. At all stages of decision making, all appropriate information should be presented in clear and easily understandable language and in an appropriate and accessible format, without undue administrative obstacles and, in principle, free of charge, in accordance with open data principles.^[2]

21. Public authorities should provide the widest possible access, both offline and online, to key documents and information without restrictions on analysis and re-use of such information.

Consultation

22. Consultation allows public authorities to collect the views of individuals, NGOs and civil society at large on a specific policy or topic as part of an official procedure.

23. Consultation may be carried out through various means and tools, such as meetings, public hearings, focus groups, surveys, questionnaires and digital tools.

24. Public authorities should provide publicly available feedback on the outcome of consultations, particularly information giving reasons for any decisions finally taken.

Dialogue

25. Dialogue is a structured, long-lasting and results-oriented process which is based on mutual interest in the exchange of opinions between public authorities, individuals, NGOs and civil society at large.

26. Public authorities, NGOs and civil society at large may consider establishing different platforms as a permanent space for dialogue and participation. Such platforms may include regular public hearings, public forums, advisory councils or similar structures.

Active involvement

27. Active involvement refers to opportunities for civil participation in decision-making processes provided by public authorities to individuals, NGOs and civil society at large that extend beyond the provision of information, consultation or dialogue. It may include working groups or committees for the co-development of documents as well as of policies and laws ultimately requiring a decision by the appropriate public authority.

28. Where joint working groups or committees exist, public authorities should adopt transparent criteria and processes for the representation of individuals, NGOs and civil society at large.

29. Various types of partnerships involving public authorities, NGOs and representatives of civil society may be suitable at different stages of the decision-making process and may include partnerships relating to the implementation of decisions.

VI. Implementing measures

30. To enable civil participation, member States should make the widest possible use of these guidelines and ensure their dissemination to enable public authorities to take awareness-raising measures and widely disseminate the guidelines themselves, where necessary, in their official language(s). This may include user-friendly guides, brochures or other tools, both offline and online, training for civil servants and support for training measures for members of civil society.

31. Where appropriate, member States should adopt or adapt any rules and measures to enable public authorities to make use of these guidelines.

32. Member States may wish to consider inviting civil society to:
- communicate and disseminate information about opportunities for participation and to help facilitate input by broad segments of civil society concerned;
 - contribute to assessing the implementation of civil participation laws and regulations.
33. In order to evaluate member States' experience in the practical application of these guidelines, the Committee of Minister may ask the European Committee on Democracy and Governance (CDDG), together with the Conference of International Non-Governmental Organisations (INGOs) of the Council of Europe to ensure regular follow-up and provide feedback to the Committee of Ministers.
34. The Committee of Ministers may transmit these guidelines to the Parliamentary Assembly, the Commissioner for Human Rights, the Congress of Local and Regional Authorities, the Conference of INGOs of the Council of Europe and the European Commission for Democracy through Law (the "Venice Commission"), and invite them to disseminate and make the widest possible use of the guidelines in their own work.

APPENDIX to the Guidelines for civil participation in political decision-making

Reference texts

Council of Europe

Secretary General

Secretary General's Annual Report on the State of Democracy, Human Rights and the Rule of Law in Europe – Populism – How strong are Europe's checks and balances?

SG(2017)1

Secretary General's Annual Report on the State of Democracy, Human Rights and the Rule of Law in Europe – A security imperative for Europe

SG(2016)1

Secretary General's Annual Report on the State of Democracy, Human Rights and the Rule of Law in Europe – A shared responsibility for democratic security in Europe

SG(2015)1

Secretary General's Annual Report on the State of Democracy, Human Rights and the Rule of Law in Europe – Report by the Secretary General of the Council of Europe

SG(2014)1

Council of Europe Conventions

European Convention for the Protection of Human Rights and Fundamental Freedoms

ETS No. 5

European Charter of Local Self-Government

ETS No. 122

Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority



CETS No. 207

European Convention on the Recognition of the Legal Personality of International Non-Governmental Organisations

ETS No. 124

Convention on the Participation of Foreigners in Public Life at Local Level

ETS No. 144

European Charter for Regional or Minority Languages

ETS No. 148

Framework Convention for the Protection of National Minorities

ETS No. 157

European Social Charter (revised)

ETS No. 163

Council of Europe Convention on Access to Official Documents

CETS No 205

Committee of Ministers

- Recommendations

Recommendation CM/Rec(2015)3 on the access of young people from disadvantaged neighbourhoods to social rights

CM/Rec(2015)3

Recommendation CM/Rec(2014)7 on the protection of whistleblowers

CM/Rec(2014)7

Recommendation CM/Rec(2014)6 on a Guide to human rights for Internet users

CM/Rec(2014)6

Recommendation CM/Rec(2012)2 on the participation of children and young people under the age of 18

CM/Rec(2012)2

Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life

CM/Rec(2011)14

Recommendation CM/Rec(2010)7 on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education

CM/Rec(2010)7

Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity

CM/Rec(2010)5

Recommendation CM/Rec(2009)2 on the evaluation, auditing and monitoring of participation and participation policies at local and regional level

CM/Rec(2009)2

Recommendation CM/Rec(2009)1 on electronic democracy (e-democracy)

CM/Rec(2009)1

Recommendation CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe

CM/Rec(2007)14

Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content

CM/Rec(2007)2

Recommendation Rec(2006)14 on citizenship and participation of young people in public life

Rec(2006)14

Recommendation Rec(2006)1 on the role of national youth councils in youth policy development

Rec(2006)1

Recommendation Rec(2004)15 on electronic governance ("e-governance")

Rec(2004)15

Recommendation Rec(2004)13 on the participation of young people in local and regional life

Rec(2004)13

Recommendation Rec(2003)3 on balanced participation of women and men in political and public decision-making

Rec(2003)3

Recommendation Rec(2002)2 on access to official documents

Rec(2002)2

Recommendation Rec(2001)19 on the participation of citizens in local public life

Rec(2001)19

Recommendation No. R (98) 14 on gender mainstreaming

Rec(98)14

- **Resolutions**

Resolution CM/Res(2016)3 on participatory status for international non-governmental organisations with the Council of Europe

CM/Res(2016)3

- **Guidelines**

Guidelines of the Committee of Ministers to member States on the protection and promotion of human rights in culturally diverse societies

CM/Del/Dec(2016)1249/4.6-app8

- **Declarations**

Declaration on the Code of Good Practice for Civil Participation in the Decision-making Process

Decl(21/10/2009)

Declaration on the role of community media in promoting social cohesion and intercultural dialogue

Decl(11/02/2009)

Declaration: Making gender equality a reality

CM(2009)68-final

Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities

Decl(06/02/2008)

15th Conference of European Ministers responsible for local and regional government (Valencia, 15-16 October 2007)

Valencia Declaration: Strategy for Innovation and Good Governance at Local Level (15-16 October 2007)

CM(2008)14-add

16th session of the Council of Europe Conference of Ministers responsible for Spatial Planning (CEMAT) (Nafplio, Greece, 17 June 2014)

Nafplion Declaration: Promoting Territorial Democracy in Spatial Planning

CM(2014)91

Parliamentary Assembly

- **Resolutions**

Resolution 2096 (2016) "How can inappropriate restrictions on NGO activities in Europe be prevented?"

Resolution 2096 (2016)

Resolution 2095 (2016) on strengthening the protection and role of human rights defenders in Council of Europe member States

Resolution 2095 (2016)

Resolution on democracy in Europe: Crisis and perspectives

Resolution 1746 (2010)

Resolution on the protection of "whistle-blowers"

Resolution 1729 (2010)

Resolution 1589 (2017 on co-operation between the Assembly and the Conference of INGOs

Resolution 1589 (2007)

- **Recommendations**

Recommendation 2086 (2016) "How can inappropriate restrictions on NGO activities in Europe be prevented?"

Recommendation 2086 (2016)

Recommendation 2085 (2016) on strengthening the protection and role of human rights defenders in Council of Europe member States

Recommendation 2085 (2016)

Recommendation 1928 (2010) on democracy in Europe: crisis and perspectives

Recommendation 1928 (2010)

Recommendation 1864 (2009) on promoting the participation by children in decisions affecting them

Recommendation 1864 (2009)E

Congress of Local and Regional Authorities

The Congress European Urban Charter II: manifesto for a new urbanity (2008)

European Urban Charter II

Revised European Charter on the participation of young people in local and regional life (21 May 2003)

- Resolutions

Resolution 385 (2015) on fostering active citizenship by building partnerships with civil society

Resolution 385 (2015)

Conference of INGOs

Expert Council on NGO Law, Review of Developments in Standards, Mechanisms and Case Law 2013-2015

OING Conf/Exp (2015) 2

Expert Council on NGO Law, Regulating Political Activities of Non-governmental Organisations, 2015

OING Conf/Exp (2015) 3

Code of Good Practice for Civil Participation in the Decision-Making Process

CONF/PLE(2009)CODE1

European Commission for Democracy through Law (Venice Commission)

Joint Guidelines of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on Freedom of Association

CDL-AD(2014)046E

European Committee on Democracy and Governance (CDDG) – Joint Working Group of the CDDG and the Conference of INGOs

Civil Participation in Decision-Making Processes – An Overview of Standards and Practices in Council of Europe Member States (May 2016)

[ECNL-COE]

Texts of other international organisations

European Union

Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community

(2007/C306/01)

Communication from the Commission – Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission;

COM/2002/0704

Commission of the European Communities COM(2001) 428, White Paper on European Governance

COM/2001/428

Organisation for Security and Cooperation in Europe (OSCE)

Recommendations on Enhancing the Participation of Associations in Public Decision-Making Processes from the Participants to the Civil Society Forum Organised on the Margins of the 2015 Supplementary Human Dimension Meeting on Freedoms of Peaceful Assembly and Association, April 2015

HDIM.NGO/0033/15

United Nations

International Covenant on Civil and Political Rights, signed on 16 December 1966, entry into force 23 March 1976, in accordance with Article 49

CCPR 16/12/1966

Convention on the Rights of Persons with Disabilities and Optional Protocol
Convention

- UN Human Rights Council

Resolution on promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development – Equal participation in political and public affairs

A/HRC/33/L.28

Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned, 11 April 2016

A/HRC/32/20

Equal participation in political and public affairs: resolution adopted by the Human Rights Council, 12 October 2015

A/HRC/RES/30/9

Civil society space: resolution adopted by the Human Rights Council, 3 October 2014

A/HRC/RES/27/31

Civil society space: creating and maintaining, in law and in practice, a safe and enabling environment: resolution / adopted by the Human Rights Council, 9 October 2013

A/HRC/RES/24/21

- UN Human Rights Committee

General Comment No. 25: The Rights to participate in public affairs, voting rights and the right of equal access to public service (Art. 25), 27 August 1996

CCPR/C/21/Rev.1/Add.7

- UN Economic Commission for Europe



UN Economic Commission for Europe (UNECE), Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ("Aarhus Convention"), 1998
Aarhus Convention

[1] As defined in the Code of Good Practice for Civil Participation in the Decision-Making Process.

[2] Data should be complete, primary, timely, accessible, machine processable, non-discriminatory, non-proprietary and license-free, and compliance should be reviewable.

Related documents

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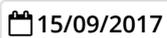
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