

## **Concept note**

### **Regional consultation for Western Europe, Eastern Europe, Central Asia and other States on draft guidelines on the effective implementation of the right to participate in public affairs**

**9 and 10 April 2018, Geneva**

#### **I. Introduction**

1. In its resolution 33/22 on equal participation in political and public affairs, the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare concise and action-oriented draft guidelines as a set of orientations for States on the effective implementation of the right to participate in public affairs, as set out in article 25 of the International Covenant on Civil and Political Rights and as further elaborated on in other relevant provisions under international human rights law, and to present the draft guidelines to the Human Rights Council at its thirty-ninth session in order to allow the Council to take a decision on the way forward.
2. In the same resolution, the Council also requested OHCHR to facilitate open, transparent and inclusive elaboration of the draft guidelines through consultations with States and with the participation of relevant United Nations agencies, funds and programmes, intergovernmental organizations, the Human Rights Committee and other treaty bodies, special procedures, regional human rights mechanisms, national human rights institutions, civil society organizations, academia and other relevant stakeholders, including through informal consultations with States and other stakeholders at the regional level.
3. In order to implement resolution 33/22, OHCHR will organize five regional consultations in each of the following regions: the Americas; sub-Saharan Africa; Asia and the Pacific; the Middle East and North Africa and the Western Europe, Eastern Europe, Central Asia and other States. The first regional consultation, for the Americas, was held in Santiago on 13 and 14 June 2017, the second consultation, for sub-Saharan Africa, was held in Addis Ababa on 6 and 7 September 2017, the third consultation, for Asia and the Pacific, was held in Bangkok on 2 and 3 October 2017 and the fourth consultation, for the Middle East and North Africa, was held in Beirut on 21 and 22 December 2017.

#### **II. Background**

4. As stated in article 25 of the International Covenant on Civil and Political Rights, the right to participate encompasses the rights of the individual to take part in the conduct of public affairs, to vote and to be elected, and to have access to public service in his or her country.

Other international human rights treaties contain similar provisions that complement the Covenant.<sup>1</sup>

5. Participation in political and public affairs cannot be considered in a vacuum; it underpins the realization of all human rights and is also inextricably linked to them. For example, the respect and full exercise of the rights to freedom of expression, to freedom of association, to peaceful assembly and to access to information and education are “among the essential conditions for equal participation in political and public affairs”, as recognized, inter alia, by the Human Rights Council in its resolution 33/22.
6. In the same resolution, the Council also recognized that, despite progress made towards the full implementation of the right to participate in public affairs worldwide, many individuals continued to face obstacles, such as discrimination in the enjoyment of their right to participate in the public affairs of their countries.<sup>2</sup>

### **III. Regional consultation for Western Europe, Eastern Europe, Central Asia and other States**

#### *a. Date and Venue*

7. The regional consultation for Western Europe, Eastern Europe, Central Asia and other States will be held on 9 and 10 April 2018, at the Palais des Nations, in room XI.

#### *b. Objectives of the consultation*

8. The main objectives of the regional consultation are (a) to seek the views of stakeholders in Western Europe, Eastern Europe, Central Asia and other States regarding the content of the draft guidelines and (b) to gain a better understanding of laws, jurisprudence, policies and good practices in the region with regard to the effective implementation of the right to participate in public affairs. The discussions

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<sup>1</sup> See the Universal Declaration of Human Rights, art. 21; the International Covenant on Economic, Social and Cultural Rights, art. 8; the International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (c); the Convention on the Elimination of All Forms of Discrimination against Women, arts. 7-8; the Convention on the Rights of the Child, art. 15; the Convention on the Rights of Persons with Disabilities, arts. 4 (3), 29 and 33 (3); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, arts. 41-42; the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, art. 2 (2); the United Nations Declaration on the Rights of Indigenous Peoples, arts. 5 and 18; the Durban Programme of Action, para. 22; the Declaration on the Right to Development, arts. 1 (1), 2 and 8 (2); and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art. 8. At the regional level, equal political rights are protected in several instruments, including the first Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms (art. 3), the American Convention on Human Rights (art. 23) and the African Charter on Human and Peoples' Rights (art. 13).

<sup>2</sup> See the reports of OHCHR on factors that impede equal political participation and steps to overcome those challenges (A/HRC/27/29), on promotion, protection and implementation of the right to participate in public affairs in the context of the existing human rights law, with regard to best practices, experiences, and challenges and ways to overcome them (A/HRC/30/26) and on the summary of the discussions held during the expert workshop on the right to participate in public affairs (A/HRC/33/25).

held during the consultation should assist OHCHR in the preparation of the draft guidelines.

***c. Participants***

9. Experts from the region, including current or former members of human rights treaty bodies and special procedure mandate holders, and representatives and experts from regional human rights mechanisms, national human rights institutions, civil society organizations and academia, will be invited to attend, taking into account gender and geographic balance and areas of expertise. The meeting will also be open to participation from State representatives and other relevant stakeholders from the region to allow for an open, inclusive and transparent consultation process.

***d. Issues to be discussed***

**i. Scope of the right to participate in public affairs**

10. The right to participate in public affairs encompasses the rights of the individual to vote and to be elected, to take part in the conduct of public affairs and to have access to public service.<sup>3</sup>
11. The Human Rights Committee has interpreted the phrase “the conduct of public affairs”, referred to in article 25 (a) of the International Covenant on Civil and Political Rights, as “a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels.”<sup>4</sup> Discussions will address all dimensions of the right to participate in public affairs,<sup>5</sup> including in all phases of the electoral process, and between elections.

**ii. Framework for meaningful and equal participation in public affairs**

12. To ensure effective and equal participation in political and public affairs, participatory mechanisms and processes should conform to certain principles, such as non-discrimination, inclusiveness, openness and accessibility. Discussions will focus on these and other principles that should guide the effective implementation of the right to participate in public affairs.

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<sup>3</sup> See Human Rights Committee, general comment No. 25 (1996) on participation in public affairs and the right to vote, para. 1.

<sup>4</sup> *Ibid.*, para. 5. In addition to the Human Rights Committee, a number of international human rights mechanisms have acknowledged public participation as a “broad concept” that encompasses the rights of all people to be fully involved in and to effectively influence public decision-making processes that affect them, to be consulted at each phase of legislative drafting and policymaking, to voice criticism and to submit proposals aimed at improving the functioning and inclusivity of all governmental bodies engaged in the conduct of public affairs. See, *inter alia*, Committee on the Elimination of Discrimination against Women, general recommendation No. 23 (1997) on women in political and public life; Committee on Economic, Social and Cultural Rights, general comment No. 21 (2009) on the right of everyone to take part in cultural life; United Nations Declaration on the Rights of Indigenous Peoples, art. 19; Declaration on the Rights of Persons Belonging to National, or Ethnic, Religious and Linguistic Minorities, art. 2; and relevant reports of the Special Rapporteur on minority issues.

<sup>5</sup> See Human Rights Council resolution 33/22, para. 10 (b).

13. Ensuring meaningful and equal participation in public affairs requires a safe and conducive environment. Discussions will focus on the rights that should be promoted and protected as a precondition to the exercise of the right to participate in public affairs, and on the normative and institutional framework that contributes to guaranteeing and enabling the right to participate in public affairs.
14. Good practices in the region allowing for different levels of participation in the exercise of legislative, executive and administrative powers, including in the elaboration of legislation and the formulation and implementation of policy at the national, regional and local levels, will be discussed. Discussions will also focus on possible remedies when the right to participate is not complied with. The importance of ensuring the right to participate in public affairs at the regional and international levels, including within international organizations, has been increasingly recognized and will also be discussed.<sup>6</sup>
15. New emerging forms of participation, in particular through information and communications technology and social media, will also be discussed.

***b. Outcome***

16. OHCHR will prepare a summary of the discussions held during the consultations. The summary will be made available on the OHCHR web page devoted to the consultation process ([www.ohchr.org/participationguidelines](http://www.ohchr.org/participationguidelines)).

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<sup>6</sup> See for example, target 16.7 of the Sustainable Development Goals, aimed at ensuring responsive, inclusive, participatory and representative decision-making at all levels. See also the report of the United Nations High Commissioner for Human Rights on practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned (A/HRC/32/20).