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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by All-Russian public organization "Russian Public Institute of Electoral Law", a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 March 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Realization of rights of persons with disabilities and the problem of interagency cooperation

The protection of rights of persons with disabilities is the prioritized direction in the policy of each country and the objection of the deliberate attention from the side of international organizations nowadays. And this is fair.

But it is very important to treat the question concerning the protection of rights of persons with disabilities with the sense of adequacy and not to make from the realization of rights of persons with disabilities the parody overemphasizing international standards and states' obligations. Because such tendencies can disturb confidence in the society not only to actors of these initiations, but also to the international cooperation institute totally.

For example, last years OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR) as a very important organization in the sphere of international observation considered disfranchising of persons (in its final reports), who adjudicated as incapable, is not corresponding to international standards. It applies to invalids with mental illnesses who cannot be responsible for their actions. Such OSCE ODIHR recommendation refers to the articles 12 and 29 of the UN Convention on the Rights of Persons with Disabilities and the Decision of European Court of Human Rights (case of Alajos v. Hungary, 2010). OSCE ODIHR presumes that there is no differences in the disfranchising (without special judgment assessment) and the decision of disfranchising is only taken on the basis of mental illnesses – is in conflict with mentioned Convention.

Such approach was taken by OSCE ODIHR during the State Duma Elections in Russian Federation in 2016. OSCE ODIHR recommended to allow disabled people to vote and stand for elections.

Such conclusion was made by OSCE ODIHR without taking into account the legal nature of the institute of the incapability in Russian Federation. The definition of incapable person in Russian Federation - individual who cannot understand the meanings of his actions and cannot manage the acts due to his mental illnesses. There must be taken the forensic psychiatric expert examination during the case consideration. Therefore, the recognition of incompetent person is the valuation of severity level of person's mental disease, as the result the individual cannot understand the meaning of his actions.

The actors of the OSCE ODIHR final report, referring to the Decision of European Court of Human Rights (case of Alajos v. Hungary, 2010), didn't take into account the mentioned circumstance. The establishment of the limited capability and incomplete patronage leads to disfranchising automatically. European Court of Human Rights established that unselective disfranchising on the grounds of mental defect, that leads to incomplete patronage, cannot be considered as the legal reason for refusing in the right to vote.

By the way European Court of Human Rights didn't consider and didn't put in doubt the opportunity for disfranchising "fully" incapable persons those who was deprived of rights to vote. It means that this provision cannot be suitable for cases in Russian Federation.

Such cases in the activity of international organizations (in our situation – OSCE ODIHR) can be considered as misunderstanding of the institute of human rights. It is demanded to realize the cooperative interdepartmental work of organizations that are involved in different public relations ranges. In our case it is OSCE ODIHR and UN Human Rights Council and other intergovernmental organizations that work in the sphere of rights of persons with disabilities. The attempts to involve in the governmental managing persons that cannot understand meanings of their actions can disturb the basis of democratic elections where citizens must realize their deliberate choice, but also can disturb the confidence to the international defender institutes.