

EDF draft Human Rights Report on political participation: right to vote and stand as candidate

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Disclaimer

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Thanks to every person with disability who is fighting for their right to vote and to stand for election, to every person who shared their stories, and their struggles, to the EDF Board, Executive Committee and members who have made sure our data is accurate and up to date.

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Glossary

Braille: a form of written language for blind people, in which characters are represented by patterns of raised dots that are felt with the fingertips.

Ballot: system of voting in an election and may be found as a piece of paper or through a digital voting tool.

Census data: census data are data collected through an official survey on the population of a country. The collected data depends on the nature of the survey and can inform on general information such as how many people live in the country, to detailed information such things as how many people in a population live with a disability.

Civil society organisations: non-governmental, not-for-profit, local, regional, national, or international citizens' organisations that work to promote specific purposes and rights, usually representing families, charities, and community groups, and bringing citizens' concerns to governments and encouraging political participation at the community level.

Concluding observations (of the CRPD Committee): document adopted by the CRPD Committee as part of the review mechanisms of the implementation of the Convention on the Rights of Persons with Disabilities in States Parties. The document contains areas of concerns and recommendations for improvement.

Council of Europe: Europe's leading human rights organisation not related with the European Union (EU) institutions. It includes 47 member states, 27 of which are members of the European Union.

CRPD Committee: The Committee on the Rights of Persons with Disabilities (CRPD) is the body of independent experts which monitors and reviews implementation of the Convention by the States Parties.

Disability movement: global social movement working to advance the rights of all persons with disabilities and their full inclusion in the society. For instance, representative organisations of persons with disabilities, disability activists, organisations working in the disability field, or some human rights organisations are part of the disability movement.

Disaggregated data: data that has been broken down by detailed subcategories, for example by a disability, gender, age, or geographical location. It can reveal inequalities that may not be apparent in non-disaggregated data.

Discrimination: any distinction, exclusion, or restriction based on one or several grounds (sex, race, disability, sexual orientation, gender identity, etc.) which damage or nullify the recognition, enjoyment, or exercise, on an equal basis with others, of

human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Disabled people's organisations (DPOs) / organisations of persons with disabilities: organisations comprising a majority of persons with disabilities that represent the interests and defend the human rights of persons with disabilities through self-representation and advocacy.

Early voting: is a voting procedure that enables voters to cast their vote before election day, usually in person at specifically designated polling stations or through postal voting. Early voting usually takes place during a specific period before election day.

Easy-to-understand: method of presenting written or oral information to make it easier to understand. For instance, easy-to-read is an easy-to-understand written format. It is very important for persons with intellectual disabilities and can facilitate everyone's understanding.

Election Management Body: also called "election administration" or "election commission", is usually divided in different tiers: a central election commission, which administers the election process overall; a regional election commissions (sometimes also called municipal election commissions, district election commissions, territorial election commissions or constituency election commissions), which administer the election process in a particular region, district or constituency; and precinct election commissions (sometimes also called polling station commissions or polling boards), which administer the election process in a particular precinct or polling station.

Electoral threshold: it is the minimum percentage of votes which a candidate or political party must receive to be eligible to be awarded seats at the end of an elections. This threshold is determined by each country. As an effect of this system, some small parties might decide to form coalitions to ensure a seat in case of proportional representation elections.

Electronic voting: also known as "e-voting", is an electronic-based voting method in which voters cast their votes using either a standalone electronic voting machines, or computers connected to the internet. In the case of electronic voting machines, the voter usually chooses their candidates using a touch-screen display.

European Commission: the EU's politically independent executive arm. Its core responsibilities include proposing EU laws and policies and monitoring their implementation.

European Court of Human Rights: is the legal body that interprets the European Convention of Human Rights and its Protocols and adopts judgments on cases alleging violations of these treaties by Member States of the Council of Europe.

European Parliament: the elected parliamentary institution of the European Union which has the role to adopt EU legislation.

European Union (EU): a unique economic and political union between 27 European countries.

Fundamental Rights Agency of the European Union (FRA): independent body of the European Union in charge of collecting and analysing data on fundamental rights.

Guardianship: when a person is not considered able to make day-to-day and life-changing decisions, do something and have responsibilities (see legal capacity), then a court may decide to create a legal relationship (place the person under guardianship) for a person or institution to take care of this adult.

Human Rights Treaty: an agreed set of human rights standards and established mechanisms. By ratifying a treaty, a country voluntarily accepts legal obligations under international law. In the report, we refer to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) treaty which was signed and ratified by the 27 EU Member States of the European Union and by the EU as supranational organisation.

International Covenant on Civil and Political Rights (ICCPR): a multilateral United Nations treaty that commits states parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.

Internet voting: an alternative voting method by which a voter casts their ballot using a secure web-based online voting system. It does not require the voter to do it from the polling station.

Institutionalisation: the fact of being placed or placing someone in an institution. An institution is any residential care where: residents are isolated from the broader community and/or compelled to live together; residents do not have enough control over their lives and over decisions which affect them; and requirements of the organisation itself tend to take precedence over the residents' individual needs.

Legal Capacity: the legal right of a person to make day-to-day and life-changing decisions, do something and have responsibilities.

List system: a system of voting in which voters vote for a list of candidates rather than an individual. This method is used in several EU Member States to allow a degree of proportional representation.

Member States (of the EU): the EU currently consists of 27 countries, also called "Member States". Each Member State is party to the founding treaties of the Union, and thereby subject to the privileges and obligations of membership. Unlike members of most international organisations, the Member States of the EU are subject to

binding laws in exchange for their representation within the common legislative and judicial institutions.

Mobile ballot box / mobile voting: A transportable secure, sealed box into which voters deposit their ballots. These mobile ballot boxes allow the so-called “**mobile voting**” and enable persons who cannot leave their homes to cast their votes there, or in residential institutions.

Mobile Voting: the process by which voters who are unable to come to a polling station in person and who votes outside the polling station are enabled to cast their votes from a different location (usually place of residence). Mobile voting is usually facilitated by members of a particular precinct election commission or polling board for mobile voters. A specific mobile ballot box is used to collect the votes cast and voters must sign a specific voter list.

Optional Protocol: an optional protocol is a treaty that complements and adds to an existing human rights treaty. For this reason, only States that have already agreed to be bound by a parent treaty may choose to be parties to optional protocols.

Preferential voting: a system of voting in which the voters indicate their choices, as of candidates, in order of preference.

Proportional representation voting system: an electoral system in which each political party of a country gets seats at the end of an election process. The number of seats available for each party is proportionally determined by the number of votes received.

Postal voting: process by which voters cast their ballots by post. This is also referred to as “by-mail voting”. The voter marks the ballots at home or any place other than a polling station. This process usually occurs before election day, and the ballot is mailed to the election authority in time for it to be counted on or shortly after election day.

Proxy voting: it is a form of voting in which a voter may give their voting power to a representative to vote in their behalf. Proxy refers to the person who will represent the voter. Depending on the country, the proxy can be chosen by or for the voter.

Reasonable accommodation: necessary and appropriate modification and adjustment, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise of their human rights and fundamental freedoms on an equal basis with others. To be “reasonable” the accommodation cannot impose a disproportionate or undue burden. Denial of reasonable accommodation is a form of discrimination.

Single-transferable vote: it is a voting system in which voters rank candidates to an election by placing them into a preferred order from ‘1’, ‘2’, ‘3’, etc. ‘1’ being their preferred candidate. It is mandatory for voters to place at least one candidate in the

first place in their ranking list. It is optional to rank other candidates, but it can make a significant difference in the final count.

States Parties (to the CRPD): countries that have signed and ratified the CRPD and have committed to making the rights of persons with disabilities a reality. The European Union, having concluded the CRPD, is also a State party together with all its Members States.

Treaty on the Functioning of the European Union: The Treaty on the Functioning of the European Union is one of two treaties forming the constitutional basis of the European Union, the other being the Treaty on European Union. It was previously known as Treaty Establishing the European Community.

United Nation: intergovernmental organization aiming to maintain international peace and security, develop friendly relations among nations, achieve international cooperation, and be a centre for harmonizing the actions of nations. It is the world's largest and most familiar international organization.

United Nations Convention on the Rights of Persons with Disabilities (CRPD): an international human rights treaty that reaffirms that all persons with disabilities must enjoy all human rights and fundamental freedoms.

List of abbreviations

AT	Austria
BE	Belgium
BG	Bulgaria
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFR	Charter of Fundamental Rights
CJEU	Court of Justice of the European Union
CoE	Council of Europe
CRPD	Convention on the Rights of Persons with Disabilities
CY	Cyprus
CZ	Czechia
DE	Germany
DK	Denmark
DPO	Disabled Persons' Organization
EE	Estonia
EMB	Election Management Body
EP	European Parliament
ES	Spain
EU	European Union
FI	Finland
FR	France
GR	Greece
HR	Croatia
HU	Hungary
ICCPR	International Covenant on Civil and Political Rights

IE	Ireland
IT	Italy
LT	Lithuania
LU	Luxembourg
LV	Latvia
MEP	Member of the European Parliament
MT	Malta
NL	Netherlands
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Cooperation in Europe
PL	Poland
PT	Portugal
RO	Romania
SE	Sweden
SI	Slovenia
SK	Slovakia
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union

Foreword (to be added)

Executive Summary

The sixth edition of the European Disability Forum's Human Rights Report focusses on persons with disabilities' right to vote and stand as candidate in the European Parliament elections. The report also explores the legal and practical barriers preventing persons with disabilities to participate in the European elections.

These EU elections take place every 5 years and, despite a minimum set of common rules in the EU legal basis, the Member States have almost full discretion in how they arrange the European Parliament elections. This creates disparities across countries concerning equal opportunities to participate in the EU elections among EU citizens, and more so in the case of persons with disabilities.

In the 2019 European Parliament elections, approximately 400,000 persons with disabilities in 14 countries were deprived from their right to vote on the basis of their disability. Particularly worrying are the legal provisions in Bulgaria, Cyprus, Estonia, Greece, Luxembourg, Poland and Romania, where a person under total or partial guardianship is automatically denied voting rights. Recent cases of strategic litigation by Disabled Persons' Organisations (DPOs) and lawyers, and the support of committed politicians have resulted in substantial legal changes in several countries before the last EU elections.

The right to stand as candidate is even less common among EU countries. Only Austria, Denmark, Spain, Croatia, Italy, Netherlands and Sweden uphold the right to stand for office for all persons with disabilities. Additionally, there are very few cases in Europe in which measures have been put in place to support candidates with disabilities.

Four countries (Belgium, France, Cyprus, and Greece) do not provide any alternative or advance means for voting, which de facto prevents all the voters who cannot physically go to the polling stations on election day from casting their vote. This lack of alternative ways of voting is particularly detrimental for persons with disabilities.

More positively, the majority of EU countries have set alternative and advance means of voting for all voters, and some particularly for persons with disabilities. These are postal voting, early voting in accessible polling stations, the possibility to choose a more accessible polling station, internet voting in the case of Estonia, and the provision of mobile ballot boxes visiting the person's home or key locations such as residential institutions or hospitals.

Lack of accessibility remains one of the main barriers for persons with disabilities to exercise their right to vote. Not only concerning polling stations, but also the design of the ballot paper, the voting booth, the voting machines as in the case of Belgium and Bulgaria, and the information provided to voters, including through public media.

Several good practices have been put in place in different EU countries, some of the most successful ones in collaboration with DPOs, concerning the provision of reasonable accommodation. This includes the possibility of alternative ways of voting (such as mobile ballot boxes), or the provision of assistive tools facilitating to cast the vote independently and in secret.

In line with the CRPD, the majority of EU countries give the possibility to persons with disabilities to freely choose assistance to vote. However, in Greece and Malta only elections officials can help persons with disabilities to cast their vote, which can effectively discourage many to participate in the elections.

Finally, even though the EU legal basis recognises equal treatment among EU citizens living in another Member State to participate in the European Parliament and in the municipal elections, the provision of accessibility and reasonable accommodation greatly varies across countries, and often decreases in local elections.

Given the European Parliament's intention of setting up common provisions to strengthen the EU's elections system¹, and with the 2024 European Parliament elections approaching, we are urging EU and national decision-makers to acknowledge, consider, and implement our recommendations, presented in full at the end of the report. These include:

- To guarantee the right to vote and stand for election regardless of legal capacity status.
- To maximise accessibility in the proceedings, facilities and materials of the elections.
- To provide reasonable accommodation so persons with disabilities can vote independently and in secret.
- To ensure the free choice of assistance.
- To cooperate with DPOs to assess and define how to solve the legal and practical barriers preventing persons with disabilities from participating in elections as voters and candidates.

¹ European Parliament proposal for a new EU Electoral Law:
[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2220\(INL\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2020/2220(INL)&l=en)

Introduction

This edition focuses on the right to political participation of persons with disabilities, including the right to vote and to stand for election. The United Nations Convention on the Rights of Persons with Disabilities (CRPD), ratified by the European Union (EU) and all EU Member States, includes the right to vote and to participation in political and public life for persons with disabilities (article 29 CRPD).

However, in the last European Parliament elections, about 400 000 EU citizens from 14 Member States were deprived of the right to participate because of their disability, and many more could not exercise this very basic democratic right because of accessibility barriers. In the current legislative term, there are only 4 MEPs with (visible) disability out of 705 European parliamentarians, even though persons with disabilities represent 15% of the population.

With the 2024 European Parliament election approaching, we investigate and analyse key information from the EU and its Member States, including legal and practical barriers to this right to vote and stand for election.. This report also provides recommendations to better ensure the right to vote and stand for elections at the EU and national levels.

Our 6th Human Rights Report has the following objectives: To:

1. Explain key obligations under article 29(a) of the CRPD.
2. Present up-to-date information on the legal and practical barriers to vote and stand as candidate in the European Parliament elections.
3. Look at the different accessibility measures put in place for the European Parliament elections, with a focus on specific accessible procedure, alternative ways of voting, secrecy of vote, and free choice of assistance to vote.
4. Compare whether the EU right of voting in local and European elections in another EU country is a reality for persons with disabilities or is not.
5. Highlight specific cases bringing substantial change to the democratic rights of persons with disabilities.
6. Raise awareness amongst organisations of persons with disabilities, policy makers, governments, and election officials on the comparative situation across the EU on the right to vote for persons with disabilities through comparative maps.
7. Provide recommendations for EU and national policymakers.

Chapter 1 is common to each issue of EDF Human Rights Report; we outline general progress on the CRPD in Europe and we highlight which states are not meeting their basic obligations

Chapter 2 describes the legal and policy framework we base this report on. We describe important elements of this framework including general comments and

recommendations by the CRPD Committee to EU Member States and the EU, and we highlight the guidelines from the UN Special Rapporteur on Disability

Chapter 3 presents and analyses legal and practical barriers to the right to vote and stand as candidate in the European Parliament elections. The chapter also compares voter registration and data disaggregation and different ways of voting in Member States. The chapter also includes a description of alternative and advance means of casting a vote.

Chapter 4 looks at citizens' equal access to elections across Member States, with a focus on accessibility of infrastructure and information, reasonable accommodation, assistance and secrecy of the vote.

Chapter 5: explores municipal elections from the perspective of EU mobile voters' and compares conditions across Member States.

Chapter 6 presents case bringing changes that resulted in the recognition of the voting rights of some 600,000 EU citizens thanks to DPOs and committed politicians.

Chapter 7 presents our conclusions and recommendations which are directed to national and EU policy makers, governments, and election officials in Europe.

Methodology

This report was prepared by the Secretariat of the European Disability Forum under the guidance of its Human Rights Committee, Board of Directors and with the input of its members.

Research was conducted and data was collected at the national level by the network of experts of Election-Watch.EU, using the Organization for Security and Co-operation in Europe (OSCE)/ Office for Democratic Institutions and Human Rights (ODIHR) methodology, which consist of:

- Analysing the elections process before, during, and after election day;
- Looking at pre-election environment and for violations such as administrative constraints and disregard for fundamental civil and political rights;
- Reviewing the legal framework, the performance of the election administration, the conduct of the campaign, the media environment and equitable media access, the complaints and appeals process;
- Observing election day;
- Reviewing voting, counting, and tabulation, and the announcement of results;
- Putting the data together to compare the situation across EU Member States.

Election watch EU also engaged closely with EDF members at national level in the research and data gathering process.

Chapter 1: CRPD Update in Europe

The CRPD is an international human rights treaty reaffirming that persons with disabilities enjoy all human rights and fundamental freedoms. It clarifies that persons with disabilities have the right to participate in civil, political, economic, social, and cultural life in the community, just like anyone else. It stipulates what public and private authorities must do to ensure and promote the full enjoyment of these rights by all persons with disabilities.

It was adopted in 2006 by the General Assembly of the United Nations (UN). 183 countries including the European Union (EU) are States Parties to the CRPD. It is also the world's fastest-ratified international human rights treaty.²

Ratification of the CRPD

In Europe, the CRPD has also been ratified rapidly. The EU has been a State Party to the CRPD since 2011. Since March 2018, all EU Member States and the EU have ratified the Convention. It is the first time that there has been universal ratification of an international human rights treaty in the EU. Other countries in Europe that have ratified the CRPD include Albania, Andorra, Iceland, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, and Turkey. Liechtenstein is the last country that has not ratified the CRPD in Europe.³

EDF calls on Liechtenstein to ratify the CRPD without further delay.

Three EU Member States (Estonia, France, Netherlands) entered a declaration, and one Member State (Poland) raised a reservation with respect to Article 12 on Equal Recognition before the law of CRPD. This means that these countries will implement Article 12 in accordance with their respective national legislation, which in each case allows restrictions on the right to vote of persons deprived of legal capacity. Malta raised reservations with respect to Article 29 (participation in political and public life) and thereby reserved the right to continue applying its existing electoral legislation in so far as voting procedures, electoral facilities and materials, and assisted voting are concerned.

[MAPS ON RATIFICATION OF THE CRPD]

² [See the United Nations' overview of countries that have ratified.](#)

³ Liechtenstein signed the Convention in September 2020.

Submission of initial report to the CRPD Committee

States Parties are obliged to submit an initial report to the CRPD Committee on measures taken to implement the CRPD two years after the CRPD comes into force in their country. Some EU Member States have not sent in their first state report to the CRPD Committee, thereby blocking the Committee's review process on progress made by those countries towards the implementation of the CRPD. This is the case for the following countries: Iceland (state report was due 23 October 2018

Romania (state report was due 3 March 2013) and San Marino (state report was due 22 March 2010).

EDF calls on Iceland, Romania, and San Marino to urgently submit their initial state report to the CRPD Committee.

[MAPS ON RATIFICATION OF SUBMISSION OF INITIAL REPORT TO CRPD COMMITTEE]

Optional Protocol to the CRPD

The Optional Protocol to the CRPD allows individuals, groups of individuals, or third parties to submit a complaint to the CRPD Committee about human rights violations. Complaints may only be made against a State Party that has ratified the Optional Protocol. If the CRPD Committee finds out that the State Party has failed in its obligations under the CRPD, it will issue a decision requiring that the violation be remedied and for the State Party to provide follow-up information.

Twenty-two EU Member States, as well as all EU candidate countries and the United Kingdom have ratified the Optional Protocol. Norway, Iceland, and Liechtenstein have not ratified it.

The CRPD Committee calls on each State Party to ratify the Optional Protocol.

EDF calls on the EU, as well as Bulgaria, Czechia, Ireland, the Netherlands, Poland, Romania, Iceland, Liechtenstein, Norway, and Switzerland, to ratify the Optional Protocol.

[You can read the full text of the CRPD and the Optional Protocol on the web page of the CRPD Committee.](#)

[MAPS ON RATIFICATION OF THE OPTIONAL PROTOCOL]

Chapter 2: International Human Rights Standard on the right to vote and to stand for election

The right to political participation, including the right to vote and to stand for election, are enshrined in several international human rights treaties, including in article 21 of the [Universal Declaration of Human Rights](#) (1948) and in article 25 of the [International Covenant on Civil and Political Rights](#) (1966). While these treaties recognise the right to political participation of all citizens, it is the CRPD that clarifies and enshrines this right for persons with disabilities. Despite the international human rights framework, it is extremely common for persons with disabilities to be deprived of this right, purely on the basis of disability. The deprivation of the right to vote highlights the extreme discrimination and marginalisation that persons with disabilities face in society.

UN Convention on the Rights of Persons with Disabilities

Article 29 of the CRPD guarantees the political rights of persons with disabilities on an equal basis with others. It requires States Parties to the Convention to take measures to ensure the right to vote and the right to stand for elections of all persons with disabilities.

Right to vote

Under the Convention, States should:

- Ensure that “voting procedures, facilities and materials are appropriate, accessible and easy to understand and use” (Article 29(a)(i))
- Protect “the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation” (Article 29(a)(ii))
- Guarantee “the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice” (Article 29(a)(iii))

Right to stand for election

Under the Convention, States should:

- Protect the right of persons with disabilities “to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate.” (Article 29(a)(ii))

Political rights are connected to several other rights of persons with disabilities protected by the Convention, including the right to equality and non-discrimination

(article 5), accessibility (article 9), equal recognition before the law (article 12), living independently and being included in the community (article 19), and freedom of communication and information (article 21). Inaccessibility of elections, lack of information, removal of legal capacity, institutionalisation and disability-based discrimination are among the many barriers faced by persons with disabilities in voting and standing for election.

The CRPD Committee addresses the political rights of persons with disabilities in several of its [General Comments](#). In **General Comment No. 1 on equal recognition before the law**, the Committee explains that denial or restriction of legal capacity has been used to deny political participation, especially the right to vote, to certain persons with disabilities, whereas it should never be the case.⁴ The Committee also recognises that “the voices of women and girls with disabilities have historically been silenced, which is why they are disproportionately underrepresented in public decision-making” in its **General Comment No. 3 on women with disabilities**.

General Comment No. 6 on equality and non-discrimination sees exclusion of persons with disabilities from political life as a form of disability-based discrimination and gives recommendations to States Parties to the Convention.

CRPD Committee’s recommendations to States Parties in [General Comment No. 6](#)⁵

“Exclusion from electoral processes and other forms of participation in political life are frequent examples of disability-based discrimination. They are often closely linked to denial or restriction of legal capacity. States parties should aim to:

- Reform laws, policies and regulations that systematically exclude persons with disabilities from voting and/or standing as candidates in elections;
- Ensure that the electoral process is accessible to all persons with disabilities, including before, during and after elections;
- Provide reasonable accommodation to individual persons with disabilities and support measures based on the individual requirements of persons with disabilities to participate in political and public life;
- Support and engage with representative organisations of persons with disabilities in political participation process at the national, regional, and international levels, including by consulting with such organisations in matters that concern persons with disabilities directly;
- Create information systems and legislation that allow for the continuous political participation of persons with disabilities, including between elections.”

In **General Comment No. 2 on accessibility**, the Committee refers to the accessibility of voting procedures, facilities, and materials, including accessibility of political meetings and the necessity to ensure that persons with disabilities who are

⁴ General Comment No. 1, paras. 48-49.

⁵ CRPD General Comment No.6 Para. 70.

elected to public office have equal opportunities to carry out their mandate in an accessible manner.⁶

Recommendations by the CRPD Committee to the EU and EU Member States

In 2015, the CRPD Committee reviewed the implementation of the CRPD by the EU for the first time. It adopted specific recommendations in relation to political participation.

CRPD Committee's Concluding Observations to the EU

Below are the **CRPD Committee's Concluding Observations to the EU, with a focus on participation in political and public life (CRPD art. 29)**:

- The Committee notes with deep concern that across the European Union, persons with disabilities, especially those deprived of their legal capacity or residing in institutions, cannot exercise their right to vote in elections and that participation in elections is not fully accessible.
- The Committee recommends that the European Union take the necessary measures, in cooperation with its member States and representative organisations of persons with disabilities, to enable all persons with all types of disabilities, including those under guardianship, to enjoy their right to vote and stand for election, including by providing accessible communication and facilities.

The CRPD Committee also adopted recommendations on political rights for 22 EU Member States. It expressed concerns about inaccessibility of information and communications related to elections, inaccessibility of polling stations, voting ballots not accessible to blind voters, removal of the right to vote and stand for election of people with intellectual and psychosocial disabilities, lack or inadequate assistance for voting and lack of data regarding the exercise of the right to vote by persons with disabilities.

Among other recommendations, the Committee stressed the need to:

- Withdraw laws that restrict the right to vote and stand for elections of persons with disabilities.
- Restore the voting rights to all persons with disabilities affected by voting restrictions.
- Ensure that all electoral procedures, facilities, and materials are accessible for all persons with disabilities, ensuring the right of persons with disabilities to a secret ballot, and through the use of communication in sign language, Braille, and easy-to-read format.

⁶ CRPD Committee, General Comment 2, para. 43.

- Ensure that mechanisms put in place to facilitate voting assistance are developed in close consultation with organisations of persons with disabilities to suit their needs.
- Provide support and facilitation services to ensure all persons with disabilities can exercise their right to vote, including persons with intellectual disabilities and/or psychosocial disabilities.
- Collect reliable and disaggregated statistics and data on the political participation of persons with disabilities as voters and as candidates of elections.

An overview of the recommendations to EU Member States is available on EDF's website.

Lagging behind: the European Convention on Human Rights and jurisprudence of the European Court of Human Rights

The Convention for the Protection of Human Rights and Fundamental Freedoms known as the European Convention on Human Rights was adopted by the Council of Europe (CoE), an intergovernmental organisation composed of 47 Member States, in 1950. Two years later, the Council of Europe adopted a Protocol that added new fundamental rights to those protected under the Convention, including on the right to free elections by secret ballot.⁷

Since then, this article has been interpreted by the European Court of Human Rights.⁸ Despite the adoption of the CRPD and its current ratification by 46 of the 47 States of the Council of Europe, the Court fails to recognise and protect the political rights of persons with disabilities. Several judgments adopted in 2021 failed to promote and protect the political rights of persons with disabilities. In February 2021 the court ruled in [Strøbye v. Denmark and Rosenlind v. Denmark](#) against the right to vote of persons under guardianship who are also deprived of their legal capacity, instead favouring a legal scheme that discriminates against and excludes persons with disabilities.⁹ In May 2021, the Court adopted a similar judgment in the case [Caamaño Valle v. Spain](#) where it considered proportionate the removal of the right to vote of a woman with intellectual disabilities under partial guardianship.¹⁰ In the judgment on [Toplak and Mrak v. Slovenia](#) adopted in October 2021, the court failed to remove obstacle against voters with disabilities. While the court recognised that

⁷ Article 3 of [Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms](#).

⁸ The European Court of Human Rights is the legal body that interprets the European Convention of Human Rights and its Protocols and adopts judgments on cases alleging violations of these treaties by Member States of the Council of Europe.

⁹ The European Court of Human Rights fails to protect the right to vote of persons with disabilities: <https://www.edf-feph.org/the-european-court-of-human-rights-fails-to-protect-the-rights-to-vote-of-persons-with-disabilities/>

¹⁰ The European Court of Human Rights supports removal of the right to vote of people with intellectual disabilities in Spain: <https://www.edf-feph.org/the-european-court-of-human-rights-supports-removal-of-the-right-to-vote-of-people-with-intellectual-disabilities-in-spain/>

polling places in Europe must be accessible for persons with disabilities, it ruled that persons with disabilities are not required to use the same entrances as voters without disabilities and that voters with disabilities do not have to cast secret ballots.¹¹

These regressive decisions were a slap in the face to disability rights campaigners in Europe and were criticised by experts of the United Nations (UN). The UN Special Rapporteur on the Rights of Persons with Disabilities and the CRPD Committee urged the European Court of Human Rights to [rethink vote ban for persons with intellectual disabilities](#).

In the second case, the Council of Europe's Commissioner for Human Rights had made an intervention on the case explaining that "developments within the UN system and Council of Europe demonstrated a clear evolution in terms of the clarification of international obligations and that there was a consensus (...) to the effect that the withdrawal of political rights on the basis of a disability (including cognitive impairment) and mental health status was unacceptable." There was also a strong opinion based on the CRPD made by one of the judges.¹²

EDF calls the European Court of Human Rights to uphold in its judgements the rights of persons with disabilities to vote and stand for election. EDF calls for the Court to update the knowledge of its judges on the rights of persons with disabilities under the CRPD and to align its interpretation of the European Convention of Human Rights with the CRPD.

¹¹ [Euractiv, EU court ruling fails to remove obstacles for voters with disabilities](#)

¹² Dissenting Opinion of Judge Lemmens.

Chapter 3: the right to vote and stand for elections of persons with disabilities

Legal framework

The legal basis of the EP elections comes from the Treaty of the EU, the Treaty on the Functioning of the EU¹³, and the Election Act of September 1976, as amended in 2002.¹⁴ This legal framework is supplemented by directives, regulations, and other secondary legislation. For example, the Council Directive 93/109/EC lays down the arrangements for the exercise of the right to vote and to stand as candidate in EP elections for “mobile voters” (these are the citizens of the Union residing in a Member State of which they are not nationals).¹⁵

The common rules for the European elections can be summed up as follows:

- The number of Member of the European Parliament (MEPs) should not exceed 750 plus the President.
- Representation of citizens must be “degressively proportional” with smaller member states having at least six MEPs, and larger member states up to 96 MEPs.¹⁶ This means very highly populated countries have many more MEPs, but very small populations also have this basic minimum representation.
- The office of an MEP is incompatible with that of member of the government of a Member State, member of the European Commission, member of a national parliament and EU staff, among others. This means MEPs cannot hold any of these other posts simultaneously.
- EU citizens have the right to vote and to stand as candidates in EU Member States in which they reside under the same conditions as nationals of that country.¹⁷
- The elections must be based on proportional representation and use the list system, the single transferable vote system¹⁸ or the preferential voting system.
- A maximum threshold of 5% of the votes nationally can also be set by the Member States for the allocation of seats in the EP.

¹³ TEU articles 10 and 14, and TFEU articles 20, 22 and 223.

¹⁴ The [Election Act](#) was amended by Council [Decision 2002/772/EC](#) of 25 June and 23 September 2002. To date, this version of the Act remains in force.

¹⁵ Council [Directive 93/109/EC](#) of 6 December 1993, as last amended by Council [Directive 2013/1/EU](#) of 20 December 2012, which amends the provisions dealing with ineligibility to stand as a candidate.

¹⁶ See table of comparison in the Annex II.

¹⁷ Article 22(2) TFEU and Article 39 CFR; the arrangements for implementing this right were adopted under Council Directive 93/109/EC, following the introduction of the concept of EU citizenship in the 1993 Maastricht Treaty.

¹⁸ Article 1 of [Council Decision 2002/772/EC](#), Euratom.

There is considerable variation in the EU.¹⁹ Concerning the election system, for example, in the majority of Member States, voters have the possibility of casting a preferential vote to influence which candidates will be elected, while in six Member States the lists are closed (Germany, Spain, France, Hungary, Portugal, and Romania), with political parties determining the order of candidates on the ballot. The single-transferable vote (STV) system is used in two Member States (Ireland and Malta). Likewise, there are also differences between Member States with regards to the threshold to allocate an MEP.

[MAP application of the different election systems across EU Member States for EP elections]

- **Casting a preferential vote** (19 – Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Greece, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Slovakia, Slovenia, Sweden)
- **Closed lists with order of candidates determined by political parties** (6 - Germany, Spain, France, Hungary, Portugal, and Romania)
- **Single-transferable vote** (2 - Ireland, Malta)]

Apart from the common provisions in EU legislation, the EP elections are regulated by national laws, and it is each Member State's right to establish its own legal framework and details of the electoral system. There is not even a central Election Management Body (EMB) at EU level. Therefore, the European elections can be considered as 27 de facto separate elections to a supra-national body.

Beyond the EU principle of equal treatment between nationals and non-nationals of other Member States, EU legislation is silent on who has the right to vote in the European elections. There are also no provisions in EU law that limit voting in the European elections only to EU citizens. Some Member States have extended the right to other categories of citizens²⁰, for example in overseas territories.

Another example is the voting age, which also differs across countries. In most Member States it is 18; only in Austria and Malta it is set at 16 years-old, and in Greece it is 17. Voting age in Hungary is 18, but married citizens of at least 16 years of age also have the right to vote.²¹

¹⁹ The EP also summarized some differences in the national legal frameworks pertaining to elections on its [website](#); compare EPRS Infographic [2019 European elections: National rules](#).

²⁰ In the Netherlands, citizens in the Kingdom countries of Aruba, Curacao, and Sint Maarten and in the municipalities of Bonaire, Sint Eustatius, and Saba are also entitled to participate in the European elections. France also grants the right to vote to citizens resident in French overseas departments and collectivities.

²¹ It has been an [OSCE/ODIHR observation](#) that enfranchisement based on marital status constitutes discrimination between citizens.

The right to vote of persons with disabilities

Despite the fact that the CRPD has been ratified by the EU and all its Member States, the extent to which it is implemented varies with regards to the realisation of the right to vote of persons with disabilities.

In 14 countries, persons with disabilities under total or partial guardianship are deprived from their voting rights. There is no reliable and comparable EU-wide data on the number of persons with disabilities deprived of legal capacity, affecting mostly (but not only) those with intellectual and psychosocial disabilities. This discriminatory situation contrary to the CRPD may also entail the potential or automatic deprivation of the person's voting rights depending on the country.

"The first time I tried to vote was in 2007, when I was 20 years old. I went to the polling station, and they told me I was not in the voting list! I was very surprised, because I was well over the legal age to vote. I was very annoyed that I could not do something that all my family and friends could do, I felt invisible. They didn't even tell me why I was not on the list. It took more than 2 years for me and my family to discover why, and thanks to the help of organisations like Plena Inclusion. They told me that I was under full guardianship. The authorities and the courts were afraid that people would take advantage of me and influence my vote. So, they decided to remove my right to vote. This is not fair; I am a citizen like any other and should have the same rights. It was very difficult to get back my right to vote. Even when we knew why, the authorities were not able to tell us exactly how to do it: first they told me to go to a psychiatric hospital to do a test, then they told me it had to see my family doctor. When I finally took the test, they asked me weird and difficult questions such as: What is the speed of light? Who was Catherine the Great? Who was Isaac Newton? And I wonder...how is this related to voting? It is very unfair. This whole process took a long time: I was only able to vote in 2018, more than 10 years after I tried to vote for the first time. There is much that needs to be improved: all persons with disabilities need to have the right to vote and we need more documents in easy to read. Right now, there are people that have to choose between their rights and the possibility of having a disability allowance. This is an unfair choice." - Adolfo Barroso, Spain

However, positively, several Member States initiated reviews during recent years with the aim of removing or narrowing the restrictions. Countries such as Germany, Spain or Slovakia removed these limitations, and Belgium, Denmark, France, Lithuania, and

Portugal reduced them²². Such reforms constitute a positive trend, as noted also by the European Union Agency for Fundamental Rights (FRA).²³

Thirteen Member States (Austria, Germany, Denmark, Spain, Finland, France, Croatia, Ireland, Italy, Latvia, Netherlands, Sweden, and Slovakia) legally uphold the right to vote for all persons with disabilities without restrictions in European Parliament elections²⁴.

The remaining 14 countries can or do deprive the right to vote to certain persons with disabilities, particularly persons with intellectual and psychosocial disabilities whose legal capacity is reduced or totally removed. The result is that in the last EU elections in 2019, according to the European Economic and Social Committee²⁵, approximately 400,000 people with disabilities were denied their right to vote.

Among these 14 countries, in 7 Member States, placing a person under guardianship does not automatically mean the loss of voting rights, but the court or authority taking the decision to place somebody under guardianship may also decide to restrict the voting rights. This may happen in Belgium, the Czech Republic, Hungary, Lithuania, Malta, Portugal, and Slovenia.

However, in the remaining 7 Member States people with disabilities who are legally incapacitated are automatically denied the right to vote. This is the case in Bulgaria, Cyprus, Estonia, Greece, Luxembourg, Poland, and Romania.

[MAP with three levels: The Right to vote of persons with Disability for EP elections:

- **Countries in which it is not restricted** (13 - Austria, Germany, Denmark, Spain, Finland, France, Croatia, Ireland, Italy, Latvia, Netherlands, Sweden, and Slovakia)
- **Countries in which it is restricted** (7 – Belgium, Czechia, Hungary, Lithuania, Malta, Portugal, Slovenia)
- **Countries in which it is denied** (7 - Bulgaria, Cyprus, Estonia, Greece, Luxembourg, Poland, and Romania)]

²² In Lithuania the civil law has been recently amended, so that only persons that are legally incapacitated specifically for elections cannot vote or be elected. In Poland, the Polish Senate, on the basis of a Helsinki Foundation for Human Rights petition, has been proceeding a legislative initiative to allow persons with intellectual disabilities, which are incapacitated, to vote in EP elections. The legislative procedure is on early stage.

²³ See FRA Report: [Who will \(not\) get to vote in the 2019 European Parliament elections? Developments in the right to vote of people deprived of legal capacity in EU Member States](#). February 2019.

²⁴ In Denmark, the law did not grant the right to vote in elections to the Danish Parliament or referendum as this would violate the Danish Constitution article 29.

²⁵ EESC opinion: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/need-guarantee-real-rights-persons-disabilities-vote-european-parliament-elections-additional-opinion>

The right to stand as candidate

Only seven EU Member States (Austria, Denmark, Spain, Croatia, Italy, Netherlands, and Sweden) also uphold the right to stand for all persons with disabilities without restrictions in European Parliament elections.²⁶

Contrary to the CRPD, the remaining Member States impose limitations on the right to stand as a candidate based on psychosocial or intellectual disability and/or lack of legal capacity.

[MAP: EU Member States and right to stand as candidate

- **Countries in which persons with disabilities can stand as candidates for EP elections without restrictions** (7 - Austria, Denmark, Spain, Croatia, Italy, Netherlands, and Sweden)
- **Countries in which there are limitations to the right to stand as candidates for EP** (20 – Belgium, Bulgaria, Cyprus, Czechia, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia)]

In no Member State there is any specific public support given to candidates with disabilities and there are no additional funds provided to cover costs for campaigning. However, positively, in Malta the new national disability strategy includes actions to promote and support candidates with disabilities²⁷.

Voter registration and data disaggregation

No central population or voter register exists at the European level for the European elections.²⁸ With the exception of four Member States (Czechia, Ireland, Italy, and Poland) which still have decentralised voter registers at municipal level, all other 23 Member States have a central voter register.

²⁶ In Denmark, the law did not grant the right to vote in elections to the Danish Parliament or referendum as this would violate the Danish Constitution article 29.

²⁷ Freedom to Live – Maltese national disability strategy 2021-2030:

https://meae.gov.mt/en/Public_Consultations/MISW/PublishingImages/Pages/Consultations/Maltas20212030NationalStrategyontheRightsofDisabledPersons/Proposed%20National%20Disability%20Strategy%20%E2%80%93%20Standard%20English%20version.pdf

²⁸ As of July 2019, the European Parliament has not released official data about how many voters have been registered for the 2019 elections or how many European citizens were eligible to vote. In the 2014 elections, 396 million voters were registered in the 28 Member States. For the 2019 European elections, media reported more than 426 million eligible voters. See: [EU EPRS Review of European and National Election Results](#) 2014-2019 Mid-term January 2017; p.38; [Politico](#).

Only in Ireland and Cyprus voters must actively register themselves at local administrative offices. In the rest of EU countries, the names of citizens are automatically included in the voter register once they become eligible to vote.

France automatically registers voters in the electoral lists with the exemption of persons under guardianship. These persons with disabilities must approach the public authorities and request to be included in the electoral lists. Therefore, despite the positive reform granting the right to vote to persons with disabilities who have been legally incapacitated, there is an additional administrative step not required to non-disabled voters.

In Italy the registration authorities also prepare a list of “special voters”, which includes persons with disabilities, voters living in hospitals and other residential institutions that intend to vote at these venues. In some cases, these persons with disabilities have to provide a medical certificate in order to vote in these places.

Finally, as a good practice example, Austria recently modernised its voter registration system which allows for online participation and facilitates accessibility for persons with disabilities to voter initiatives and referenda.

Therefore, apart from additional administrative steps for certain persons with disabilities in some countries, in most countries the voter registration is not burdensome for persons with disabilities because they are automatically registered.

While the CRPD Committee and some EU bodies have called Member States to disaggregate electoral data by various types of disabilities and gender, most Member States have not implemented such provisions, except for Slovenia and Sweden.

In Sweden the Authority for Participation has systematically evaluated the participation of persons with disabilities in elections. Their methodology has involved various stakeholders, including public authorities, DPOs and individuals, and has resulted in legislative and practical changes. Together with the Central Statistical Bureau’s analysis of the latest elections, it will be possible to evaluate if these measures will result in a higher level of participation of persons with disabilities in elections.

The Netherlands Institute for Human Rights has been effectively monitoring the implementation of national obligations to ensure the right to vote for persons with disabilities.

In few Member States, statistical data is available concerning persons with disabilities and participation in elections. For example, Germany’s data shows that there are about 7.7 million eligible voters with severe disabilities, which represent 11.88% of the total electorate in 2019.²⁹ In Italy, each municipality maintains two separate voter

²⁹ According to interactively self-aggregated data from the statistics office’s website In LT there were 230 000 persons officially declare as having disability in 2020.

registers, one for men and one for women. And France provides official data on registered voters by gender, but does not disaggregate data by disability, as it is the case of most countries.

Different ways of voting

As explained above, EU Member States have different voting systems. This also means that there are differences in how, when and by which means voters can cast their votes.

For example, European Parliament elections are mostly conducted on a Sunday, except in the Netherlands where they are held on Thursday, in Ireland on Friday, in Malta, Latvia, and Slovakia on Saturday, and Czechia where voting takes place on two days, Friday and Saturday. Another difference across the EU is that voting is compulsory in five countries: Belgium, Bulgaria, Luxembourg, Greece, and Cyprus. The identification documents to present to vote also vary across countries.

Regarding how to vote, there are even more differences among Member States. Voters in a few countries cast their vote by electronic voting machines (Bulgaria, parts of Belgium, and recently a district in Portugal)³⁰. In Estonia there is also the option of Internet voting.

In most Member States, voters express their will by marking the ballot with an “X”, a tick, or a circle (Austria, Belgium, Bulgaria, Cyprus, Croatia, Denmark, Germany, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, and Slovenia), and in the case of Romania by using a stamp. In Italy, voters who would like to cast a preferential vote have to handwrite the name of candidate on the ballot. Similarly, in Estonia and Finland, voters also must handwrite the number of their party or candidate in a rectangle/circle. In Ireland and Malta, the voter has the option of giving numerical preferences to as many candidates as they like, or of voting for as few as one candidate.³¹

[Photo collage of ballots for EU Elections from Ireland, Cyprus, Malta]

[Photo collage of ballots for national elections from Czechia, Denmark, Greece, Slovakia]

³⁰ In Bulgaria electronic voting was available in parallel to paper voting as an option in 3,000 polling stations. In Portugal an electronic voting pilot project was carried out in one district with some 50 polling stations.

³¹ Voters are required to mark their preference numerically, with their number ‘1’ being interpreted as the vote for the party as well as their preferred candidate. This is the single transferable vote system.

In the rest of Member States (Spain, Czechia, France, Greece, Latvia³², Sweden and Slovakia) voters select the ballot paper of the party they want to vote for.

In Sweden, unlike in most countries, the polling station officials and not the voter cast the ballot into the ballot box.

Obviously, these different voting methods have different accessibility challenges and potential solutions that we will look at in following sections.

Alternative and advance means of casting the vote

With a view to facilitating greater democratic participation, most of the Member States offer a variety of alternative and advance voting methods in addition to voting in polling stations on election day. However, advance and alternative voting methods are not available consistently in all Member States and to all voters, raising questions of equality of opportunity in the exercise of the right to vote across the EU.

The main alternatives to physically going to the polling stations on the election day are early voting in person, postal voting, and internet voting. For many persons with disabilities, these alternative ways of casting their vote are more accessible and convenient. As a matter of fact, in some countries the option of early or postal voting is only available to voters with disabilities.

Additionally, to facilitate the right to vote of persons with disabilities, several countries have introduced measures to enable alternative ways of voting for persons with disabilities. These measures include mobile ballot boxes and the possibility to change polling stations. These appropriate measures can be considered as reasonable accommodation to exercise the right to vote, and we will look at them in more detail in the next chapter.

The majority of Member States grant the possibility of voting in advance of election day as we will see next. However, four EU Member States (Belgium, France, Cyprus, and Greece) offer no alternative voting option like postal, internet or mobile voting for persons with disabilities, which de facto disenfranchises those voters who cannot go to the polling station. Malta does not offer alternative means for voting to non-disabled voters but allows the possibility of early voting for persons with disabilities.

[MAP of EU Members States and accommodation for Persons with Disabilities ahead of the election day

³² In the case of Latvia, on the ballot paper alongside the names of the candidates, a voter may mark "+", if he/she especially supports the respective candidate, may not make a mark (place an unchanged ballot paper without marks into the ballot envelope), or strike out the given name if he/she does not support the candidate.

- **Countries in which persons with disabilities can vote ahead of the election day** (23 – Austria, Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden)
- **Countries in which persons with disabilities are being offered no alternative posting option** (4 – Belgium, France, Cyprus, and Greece)]

Early voting

In ten Member States (Austria, Denmark, Estonia, Finland, Germany, Latvia, Malta, Portugal, Slovenia, and Sweden) there is the option of early on-site voting at special polling stations.

In Portugal early vote is available for the local and European elections. Persons with disabilities must register for this alternative and advanced means of voting in a digital platform or in the civil parish.

This option may be beneficial for persons with disabilities if the polling station ready in advance of the election day is accessible to them, as it is the case in Portugal.

[MAP Early Voting in EU Member States

- **Countries offering early on-site voting at special polling station** (10 - Austria, Denmark, Estonia, Finland, Germany, Latvia, Malta, Portugal, Slovenia, and Sweden)]

Postal voting

In-country postal voting is provided for in nine Member States (Austria, Germany, Spain, Finland, Ireland, Lithuania, Luxembourg, Poland, and Slovenia), but not available in the remaining eighteen countries.

As for postal voting, there is a great variation as to the scope of use, ranging from being available to all voters in-country and abroad, to being offered only to persons with disabilities and persons above 60 years of age and those in isolation or quarantine in the case of Poland.³³

³³ Only those with officially confirmed severe or moderate disability. To access it one need to put a motion and attached a copy of a valid decision of the competent authority on the degree (severe/moderate) of disability. Due to the COVID-19 pandemic a recent legal amendment (Article 53a par. 1a Election Code) extended this provision to people in isolation or quarantine on the voting day & those over 60 years of age.

MAP EU Member States allowing in-country postal voting (9 - Austria, Germany, Spain, Finland, Ireland, Lithuania, Luxembourg, Poland, and Slovenia)

Internet voting

Internet voting is only available in Estonia, where voters can decide to go to a polling station or to cast their vote on a website. Throughout the election day, voters can change their vote (whether in the polling station or through the internet), and the last casted vote is the only one considered.

MAP EU Member States and internet/electronic voting

- **Internet voting is used and legal (1 – Estonia)**
- **Internet voting is illegal (1 – Luxembourg)**
- **Pilot electronic voting (2 – Malta and Poland)**
- **Electronic voting machines are used at the polling stations (2 – Belgium and Bulgaria)**

Mobile ballot boxes

Mobile ballot boxes, which implies the visit of a mobile polling commission at the location of the voter, is offered in 17 of the 27 Member States (Austria, Bulgaria, Germany, Croatia, Czechia, Denmark, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania, and Slovakia). In the case of Germany, Netherlands, and Poland, this applies only in connection with special places such as hospitals or long-term care residential institutions.³⁴

MAP: EU Members States allowing mobile vote for persons with disabilities

- **Allowed with no conditions (14 - Austria, Bulgaria, Croatia, Czechia, Denmark, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Portugal, Romania, and Slovakia)**
- **Allowed under certain conditions (3 – Germany, Netherlands, Poland)**
- **Not allowed or no data available (10 – Belgium, Cyprus, France, Greece, Ireland, Luxembourg, Malta, Slovenia, Spain, Sweden).**

³⁴ To facilitate voting in hospitals, homes for elderly persons and in special-care homes the chairperson together with 3 other staff from a polling station can form a mobile team.

Changing polling station

Countries such as Hungary, Slovenia, Denmark, Italy, Lithuania, Latvia, Croatia, Poland, Slovakia, or Germany allow persons with disabilities to change or choose polling stations which are more accessible to them.

MAP: EU Members States allowing persons with Disabilities to change or choose polling stations (10 - Hungary, Slovenia, Denmark, Italy, Lithuania, Latvia, Croatia, Poland, Slovakia, Germany)

Proxy voting

Proxy voting, which is not in line with international standards for ensuring the equality and the secrecy of the vote³⁵, is permitted in five countries (Belgium, France, Netherlands, Poland, and Sweden). Given that this method does not guarantee the right to vote to persons with disabilities independently, we do not consider it as an acceptable alternative means of voting.

³⁵ International standards for democratic elections require ensuring the secrecy and equality of the vote and respect for voters' choices; see: Article 25 of the ICCPR; General Comment to Article 25, paras 20-22; the 1950 Convention for Protection of Human Rights and Fundamental Freedoms, Protocol 1 of 1952, Article 3.

Chapter 4: equal access to elections, secrecy of the vote and free choice of assistance

Accessibility

According to the CRPD article 29, State Parties must ensure that “voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”. Therefore, to ensure equal access to elections, Member States must apply accessibility in all these elements of the elections, as well as to provide reasonable accommodation for those persons with disabilities for whom the accessibility provided will not be enough to vote independently and in secret. In this regard, the alternative and advance ways of voting for persons with disabilities outlined in the previous chapter can be considered as reasonable accommodation, which does not exempt countries from their obligation to make the elections as accessible as possible.

Ballot papers and casting the vote

In previous sections we explained the very different designs of ballot papers, as well as the various actions voters need to undertake to cast their vote depending on the country they live in. For many persons with disabilities there are accessibility challenges concerning the size of the ballot, its structure, the size and type of the font, the required tasks of ticking a box, making a cross or a circle, or even handwrite numbers or the names of candidates. Therefore, accessibility requirements can be set out to improve the design of the ballot papers in order to maximise their legibility and understandability, and to the task of every voter easier. I

In Norway, for example, the legislation defines the font size and font type of its ballot papers. In France and Ireland, the legislation also includes accessibility requirements as for the voting techniques and proceedings.

As mentioned above, the size of the font in the ballot paper is a major concern in many countries. In Austria, DPOs criticised the small letter size on candidate lists but welcomed the newly introduced possibility to fill a candidate's sequence number on the ballot instead of handwriting the name.

Like in many other Member States, DPOs in Sweden have expressed concerns and proposed bigger ballot papers with larger space between the candidates' names to simplify to separation and identification of the candidates, if possible, using a matrix.

Another good practice concerning ballot papers can be found in Ireland, where they are printed in colour, the ballot paper sets out an alphabetical list of candidates, as well as their photographs and a political party symbol. Similarly, in Malta, following suggestions from DPOs, the EMB aims to include the picture of each candidate in

colour on the ballot paper which will further help persons to mark their ballots independently.

In Spain, Czechia, France, Sweden and Slovakia we find another positive practice: voters receive ballots by post before the elections, allowing persons with disabilities to make their selection at home and using, if they need so, their own assistive tools.

On the contrary, in Romania booklet-shaped ballot papers are used and have been criticised due to their dimension, poor quality of paper and of the stamps which are the obligatory means to mark a vote.

In Estonia, internet voting is fully accessible for persons with disabilities, since the website used for voting complies with the web accessibility standard required by the 2016 Web Accessibility Directive³⁶. This allows persons with disabilities, including those using assistive technologies like screen reader software, to cast their votes independently.³⁷

However, in the case of electronic voting with voting machines in polling stations, in Belgium not all the voting devices used to vote have all the necessary accessibility requirements, such as the height of the screen, a screen reader function for blind people (including the possibility to plug headphones to ensure the secrecy of the vote), or the possibility to zoom. Also In Bulgaria, the voting machines so far do not offer sound assistance that can support the independent voting of people with visual disabilities, nor features for people with intellectual disabilities.

“I’m both Romanian and Belgium and voted more than 10 times in my life. I was never able to vote alone: I had to have either a friend or someone from the electoral commission. It was already bad not to have privacy to vote, but in Belgium is worse: the electronic vote is completely inaccessible, and they required someone from the electoral commission, that I don’t know and don’t trust, to vote for me. How can I assure they vote for the right candidate? If I could have one thing, it’s accessible voting machines – they exist, but still not in Belgium. I could finally go and vote alone.” - Loredana Dicsi, Internal Communication and Membership Officer at EDF

³⁶ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies: <https://eur-lex.europa.eu/eli/dir/2016/2102/oj>

³⁷ The election webpage conforms with W3C WAI WCAG guidelines and is compatible with screen reader software. Visitors can also change the contrast and the font size under the Accessibility option on top of the page.

Polling booths and polling stations

In many EU Member States, efforts aimed at facilitating persons with disabilities' electoral participation have been focused on ensuring the physical accessibility of polling stations.

Several Member States improved their legislation to explicitly require polling station accessibility, and the majority of States introduced physical accessibility measures, including ramps, ground-floor location, accessible voting booth design, and on-site support. However, the level of implementation of accessibility measures varies widely, with access to polling stations remaining an issue of concern in most countries (for example in Austria, Bulgaria, Cyprus, Czechia, Germany, Greece, Hungary, Latvia, and Romania³⁸).

There is legislation for accessibility of all public buildings and polling stations in eight countries (France, Ireland, Malta, Netherlands, Romania, Slovakia, Slovenia, Spain, and Portugal), or for only newly constructed buildings in Luxembourg³⁹ and Latvia. However, in some Member States accessibility provisions for polling stations are still done on a voluntary basis like in Austria.

MAP EU Members with direct and indirect legal obligations to ensure the physical accessibility of polling stations (17 - Belgium, Bulgaria, Denmark, Estonia, France, Germany, Ireland, Italy, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovenia, Spain, Sweden).

France has accessibility requirements throughout the electoral process for public and private buildings. The premises where the polling stations are located must be accessible to persons with disabilities, if necessary, by means of temporary or permanent arrangements. The chairperson of the polling station must take all necessary measures to facilitate independent voting for persons with disabilities.

In Ireland the law contains provisions relating to access to polling places. Public notice must be given in case a polling station is not accessible. In this country, of the more than 7,000 polling stations fewer than 50 are considered inaccessible.

In Denmark, the election administration must select accessible buildings and rooms and in each polling station there must be at least one voting room with space for a person using a wheelchair and two assistants.

In Slovenia the court ruling introducing the legal requirement of accessibility of polling stations had an adverse short-term effect and resulted in the reduction of polling

³⁸ Citizen-led election observers in Romania assessed that 66% of polling stations are considered accessible.

³⁹ A new law on accessibility of public buildings was voted in the national parliament in 2021. DPOs expect 100% of polling stations to be accessible for the next elections in 2023.

stations and the use of container polling stations which were inadequate for voters using wheelchairs.

As for the voting booths, only Belgium, and Lithuania have accessibility requirements concerning the polling booths (e.g., their height and width). However, several countries also make sure there are accessible voting booths. In Malta polling booths are enlarged to cater for persons using wheelchairs. And in Finland and Sweden polling stations are generally equipped with an accessible polling booth for people using wheelchairs.

“I vote every time and for every election: 10 – 12 elections until now, local, national and European. One of the main problems I have is with the secrecy of vote. In one of my first-time voting, the booth screen was too high – I could ride my chair to the booth, but everyone could see whom I voted for. I made a suggestion for a more accessible booth, and the next time they had a better booth. But problems persist until today!” - Pirkko Mahlamäki, Finnish Disability Forum

Election information

Election Management Bodies (EMBs) do provide information for all voters, including through their websites. However, not all EMBs websites comply yet with the web accessibility requirements derived from the Web Accessibility Directive applicable to all public sector bodies. Digital tools and key online resources, including online voter registration and verification services, were often not designed in an accessible manner.

Positively, EMBs in 13 Member States (Austria, Belgium, Bulgaria, Finland, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Portugal, and Spain) have produced various voter education and information materials adjusted for persons with disabilities, including in large print, plain text, easy-to-read formats, and in sign language ahead of the 2019 European elections. Among them, election authorities in several countries (Austria, Belgium, Czechia, Spain, Finland, Hungary, and Ireland) actively collaborated with DPOs in designing and disseminating this information.

MAP: EU Members States in which voter information and education materials are accessible

- **Countries producing various accessible education and information materials** (13 - Austria, Belgium, Bulgaria, Finland, Germany, Greece, Hungary, Italy, Lithuania, Luxembourg, Netherlands, Portugal, and Spain)
- **Countries working with DPOs to improve the accessibility and dissemination of education and information materials** (7- Austria, Belgium, Czechia, Spain, Finland, Hungary, and Ireland)

Linked to the previous section, EMBs rarely provide information about the accessibility of polling stations. However, good practice can be found in five countries (Estonia, Germany, Lithuania, Latvia, and Poland), where this information is shared through electronic map applications, on the EMBs websites, or by including such information on the elections notification to voters.

In several Member States, for example Austria and Slovenia, the EMB website and online documents are provided in easy-to-read format. In other Member States (Bulgaria, Germany, Czechia, Latvia, Netherlands, Poland, Romania, Slovenia, and Spain) the EMB provides some voter education materials related to the accessibility measures available for voters with disabilities and, at times, videos with subtitles and sign language. For example, in Czechia, a newly introduced QR code on voting instructions is attached to the sent-out ballots which leads to a video in sign language.

In Spain, the website of the Ministry of the Interior's dedicated webpage "Accessible Voting" includes information on electoral processes and links to telephone text services for persons with hearing disabilities, as well as voter education information in text and video formats with audio description.

However, in many EU Member States DPOs highlight insufficiencies in electoral, civic, and voter education materials, including in accessible formats for persons with disabilities such as easy-to-read or Braille. In most instances, visual media also lack subtitles, audio descriptions, or sign language interpretation.

Political parties

There are no comprehensive rules across the EU requiring political parties to produce their information and organise their events in an accessible manner for persons with disabilities.

In some Member States political parties and candidates provide information in formats that are accessible to persons with various types of disabilities (Germany, Denmark, Finland, France, Latvia, Lithuania, Netherlands, Slovakia, and Spain). However, these accessibility offers are still rare, inconsistent and accessibility measures are only applied by some parties.

For example, DPOs in Austria found that none of the party websites fulfilled a comprehensive set of accessibility requirements. Similarly, in Belgium no political party website was compliant with digital accessibility standards, nor programme was translated into Easy to Read, or available in Belgian French Sign Language. In Sweden political parties have the same obligation as municipalities to provide events

that are accessible, yet in most Member States most campaign events are not disability-inclusive.

In Germany parties differ in the extent to which they provide information in formats that are accessible, with the Greens offering the widest variety of formats⁴⁰, Liberals and Social Democrats (SPD) come second and Christian Democrats (CDU) a distant fourth. All four parties have, however, their party manifestos in easy language versions. On social media channels (Twitter, Facebook, Instagram) it is again the Greens which ensure that, for example, alternative texts for picture descriptions are available.

In Portugal some political parties include sign language interpretation on their main political events, as well as subtitles to videos posted online. The Portuguese Electoral Commission has called political parties to share their manifestos in accessible formats, but the response rate to this call was unsatisfactory.

In Lithuania political parties and candidates are asked to make easy-to-read information available about themselves for the booklet made by the Central Election Commission. And in Malta political parties have adopted the use of sign language interpreters.

The Netherlands Institute for Human Rights called upon parties to publish their election programmes in accessible formats with the effect that six political parties followed this recommendation. In addition, two parties had their programmes in audio and one party made their programme accessible in Braille and sign language.

Public media

There are legal requirements in different countries of the EU with regard to the accessibility of media. Particularly, when it comes to audiovisual media, the Audiovisual Media Services Directive⁴¹ obliges public and commercial TV channels to make their services continuously accessible to persons with disabilities. Before the revision of this Directive was adopted in 2018, the level of implementation of accessibility greatly varied (and still varies) across countries.

In France during the electoral period all main national TV channels must ensure that they promote access by subtitling and using sign language interpretation in the main programs devoted to electoral news and broadcasted during peak hours.

⁴⁰ Including documents in EPUB format and accessible PDF, HTML and MP3 formats.

⁴¹ Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities: <https://eur-lex.europa.eu/eli/dir/2018/1808/oj>

To follow election campaigns, in Finland the Finnish Broadcasting Company provides subtitles, audio subtitles⁴² and simultaneous sign language interpretation. Interviews with candidates have been transcribed in easy-to-read format as well as broadcasted in sign language. The Finnish public TV channel also organised and broadcasted campaign events targeting persons with disabilities and persons with memory disorders, informing them in advance.

In Spain, the announcements describing the voting procedures are broadcasted in TV with subtitles and sign language interpretation. Additionally, the media service of the Spanish lower house of Parliament has developed and uploaded videos explaining voting procedures for persons with visual disabilities on their website and YouTube channel.

In Poland, all press conferences of the National Electoral Commission are available with sign language interpretation.

“When I was growing up in Poland, the only way to pick your political side was really by talking to friends and family. Newspapers were state controlled. TV debates were and still are not accessible to deaf and hard of hearing people due to a lack of live subtitling of live debates. You can of course read newspapers but from my own experience and perspective, it is live debates which bring more understanding of the candidate views, persona and how they present themselves.” - Lidia Best, United Kingdom/Poland

In Hungary for almost all media outlets, the law prescribes that most programmes should be available with Hungarian subtitles or sign language interpretation. This obligation includes political programmes but not campaign spots.

In Lithuania, Latvia, and Slovakia interpretation of electoral debates into sign language are arranged on national TV. In the case of Lithuania, this is financed by the Central Electoral Commission.

Reasonable accommodation

Bearing in mind the different voting systems across the EU, even if accessibility measures have been incorporated, it is expected and necessary that most Member States also introduce appropriate measures to guarantee that persons with disabilities can vote on equal footing with others. As we already presented in the previous chapter, allowing for alternative and advance means for voting can be considered as reasonable accommodation. In this section we will deepen into these, as well as other measures to provide reasonable accommodation.

⁴² Audio subtitles read the subtitles aloud benefiting blind and partially sighted. They were developed in cooperation with the Finnish Federation of the Visually Impaired.

Alternative means to vote

In Belgium, France, Cyprus, Greece and Malta, there are no provisions of alternative in-person voting methods such as postal, internet or mobile voting. Voters must physically cast their vote in polling stations, preventing those who cannot leave their homes, or live-in hospitals and residential institutions from exercising their right to vote. As we previously introduced, the provision of alternative and advance means of voting do benefit persons with disabilities. This is why the majority of EU countries (included Malta in this case) have introduced alternative means for persons with disabilities to cast their vote.

For example, to avoid accessibility barriers in polling stations, some Member States allow persons with disabilities to change or choose the most accessible polling station for them. This is possible in Austria, Belgium, Bulgaria, Czechia, Estonia, Hungary, Ireland, Latvia, and Netherlands.⁴³ In Latvia this provision is not specifically for persons with disabilities, because all voters can cast their ballot in any polling station in the respective constituency, thus persons with reduced mobility can choose the closest accessible polling station from the list published on the EMB website. In some cases, persons with disabilities will need to request such change (e.g. in the Belgian region of Wallonia), or they can do it without any prenotification (e.g. Bulgaria or Finland).

The provision of mobile ballot boxes, or mobile voting, which implies the visit of a mobile polling commission at the location of the voter, is offered in 17 of the 27 Member States (Austria, Bulgaria, Germany, Croatia, Czechia, Denmark, Estonia, Finland, Hungary, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania, and Slovakia).

However, in Germany, Netherlands, and Poland, the mobile ballot boxes are set only in connection with key locations such as hospitals or residential institutions.

In Austria, mobile polling commissions visit hospitals, long term care residential institutions, as well as voters at home. Similarly, several countries such as Ireland, Bulgaria, Estonia, Latvia, or Italy, in addition to the possibility for the voter to cast their vote at home, polling stations are also set up in key locations, such as residential institutions or hospitals.

Even though in Croatia mobile voting is available on demand and in residential institutions, voting is not possible from hospitals in any election. And in Romania, the

⁴³ In Luxembourg is only offered in the capital city and not in all municipalities. In Romania, for EU elections one is not allowed to change the polling station due to disability reasons. One can vote in any other polling station, outside the locality, but this is a general rule for any voter.

regulations regarding the use of mobile ballot boxes are rather limited and subject to interpretation of the election commissions.

An additional good practice can be found in Finland, where transportation for eligible voters with disabilities to the polling and early polling stations is provided. In addition, early voting is also conducted in hospitals, correctional centres, and residential institutions. Voters who cannot go to a polling station may also vote in advance in their home.

“In the last European elections, I voted in my post office, where there were no accessible booths. The process was a shamble, I had to face the corner and make my vote there. That was not acceptable. It is not difficult to make arrangements for me to have an election experience equal to others...” - Pirkko Mahlamäki, Finnish Disability Forum

In countries such as Sweden, Denmark (where it is possible to vote from a parked car outside the polling station), Spain or Croatia, it is also possible, as a form of mobile voting, to cast the vote outside the polling station. This option should not be considered as the only form of mobile voting because, although it facilitates the exercise of their right to vote when the polling station is not accessible, this measure does not ensure that persons with disabilities vote in the same conditions as other voters, and also requires in many cases that they bring their ballot and envelope with them from home.

Assistive tools

In the last European elections efforts were undertaken by Member States (Denmark, Spain, Finland, France, Hungary, Ireland, Lithuania, Luxembourg, Malta, Netherlands, Poland and Portugal) to support the right to vote of persons with disabilities through the use of assistive tools like Braille and large-print voting materials, tactile ballot sleeves, stencils as well as by making other supportive tools available, such as magnifying glasses, special writing utensils, and lamps, in addition to information in easy-to-read and sign language.

The availability of such assistive tools is, however, far from being a common standard, but remains in the domain of good practice. In most Member States election administrations make use of these, but no assistive tools are available in Bulgaria, Cyprus, Greece, Italy, Romania, Slovakia, and Slovenia.

Before we start with some examples, it is important to underline that there is no such thing as Braille ballot papers, as these would identify the voter. The assistive tools for blind and partially sighted voters include tactile templates, stencils, or sleeves (with or without Braille on them) to guide the voter where to mark the ballot paper. In those countries where the voter does not need to mark the ballot paper (for example in

Spain), there is the possibility of producing envelopes with Braille on them, which contain the regular ballot paper inside.

In Luxembourg tactile ballot sleeves are made available allowing blind people to identify where they need to mark their vote. In Austria similar stencils are also in place, but no other tools like magnifying glass are in use or included in the legal provisions.

In Portugal Braille templates were also introduced. In Hungary partially sighted and blind voters may request voter information in an accessible format or a tactile ballot guide. In Malta, even though Braille templates are available, the majority of persons with visual disabilities often prefer to be guided with an audio format available in the country for the elections.

In Croatia Braille voting templates were only available for the recent presidential election and for municipal elections, but due to the size of the ballots for the European Parliament and the national parliament elections, these templates are not prepared for these.⁴⁴

In Germany stencils for people with visual disabilities are provided by a DPO⁴⁵ through federal branches. Every stencil is accompanied by information of how to use it, in Braille, audio format or in large print. The German government reimburses the costs of producing and distributing the blind stencils to the DPO.

In Spain voters can order Braille kits beforehand, within 27 days from the call of the election. These Braille kits are available for national and European elections and include all the political parties' candidatures in respective Braille envelopes containing the ballot paper.

In Finland stencils and Braille ballot guides are available and, additionally, each polling booth is equipped with a magnifying glass, a pen, and a master list of candidates. In Sweden all the polling stations should be equipped with magnifying glasses too.

In Poland polling places accessible for voters with disability must have additional spot lighting in the polling booths and all official information must be hung at proper height, so a person moving on a wheelchair can easily read them. In all precincts voters can ask for a Braille ballot overlay.

In some countries like Belgium different measures are introduced in different regions of the country. While Flanders has regulations for magnifying glass, specifications about voting desk, easy-to-read, and large print, Wallonia regulates that voting forms

⁴⁴ Namely, those ballots are in large format (approximately 60 x 40 cm - depending on number of lists), and in the Braille version it would translate to 12 pages.

⁴⁵ Deutschen Blinden- und Sehbehindertenverbandes e.V. (DBSV)

are reproduced at 150 per cent of their size and must be available to voters upon request.

In Czechia, the design of the ballot in combination of the method of voting does not allow for use of any Braille ballot guide. But no other assistive tools, such as magnifying glasses, are available in the polling station while the use of small fonts on the ballot papers remains an issue.

In Ireland a large print copy of the ballot paper is also displayed in polling stations to assist those with visual disabilities. The use of the Braille template is supported by a telephone line which the voter must ring to be informed of the layout of the ballot paper and the list of candidates on it. Sign language interpretation has not yet been made available at polling stations, but, as the Sign Language Act has recently become law (December 2020) it is anticipated that sign language provision at elections will be sought.

In Lithuania there have been some recent improvements for deaf persons, as in the 2020 election for the first time everyone who needed could use the remote free of charge Lithuanian sign language interpretation services via Skype. Also in Lithuania, for the first time Braille ballot stencils were made available to blind people in 2019.

As good practice example in Denmark the election administrations use a broad number of assistive tools to support voters with disabilities. There are magnifying glasses, digital magnifying glasses (with a TV screen), LED light and height adjustable tables in the polling stations.

Secrecy of the vote

Voters have the right to vote in secret. For voters with disabilities, however, this right depends on different factors namely whether the voting system and facilities are accessible to them, whether there are alternative ways of casting the vote, and whether reasonable accommodation has been provided to them. The lack of some of these elements will inevitably force certain persons with disabilities to seek for assistance to cast their vote (see next section). Therefore, the secrecy of the vote will depend on the context and the type of disabilities.

“Something many people don’t realise is that secret ballots are not so secret when blind people vote. For example, the polling station in which I vote has electronic machines, so I always need to have an assistant voting for me. The assistant is an official from the polling station, so they will know who I voted for. I hope that they change the electronic machines, and all the polling stations, to be accessible.” - Lars Bosselmann – about his experience voting Belgium

If we look at the case of people who are blind or partially sighted, there are 18 Member States which have not put in place the necessary measures to ensure they can vote in secret. These measures are the reasonable accommodation examples we highlighted in the previous section such as Braille templates, tactile stencils, and other assistive tools.

Bearing in mind the differences across countries and persons with disabilities, there are, nevertheless, certain elements which further compromise the secrecy of the vote of persons with disabilities. Particularly worrying are the cases of Bulgaria, Greece, Malta, and Cyprus.

In Bulgaria problems may occur in polling stations in residential institutions and hospitals, where, by rule, the staff is appointed by governmental and local authorities, which can influence the process. Moreover, there are reports that the mobile voting often proceeds in the absence of the entire election commission. Furthermore, the exclusive reliance on the voting machines which are not accessible, also undermines the secrecy of the vote.

In Cyprus the right to vote independently is also compromised as there are no assistive tools available within polling stations. Besides, instead of creating accessible polling stations, outdoor voting booths were set up for persons using wheelchairs, also compromising the secrecy of their vote.

In Austria DPO representatives consider the stencils in use might be inappropriate with regards to the secrecy of vote as the marks on the stencil could be used to trace where the ballot was marked; They recommend voters with visual disabilities bring their own stencil rather than using the one provided by the polling station.

In Czechia participation of voters with various kinds of disabilities remains limited due to the lack of alternative voting methods. Secrecy of the vote, especially for voters who are blind or partially sighted, illiterate, or incapable of properly understanding the system of ballots and the manner of voting, is also challenged due to the voting methods. The lack of alternative and accessible voting forces persons with disabilities to require assistance of another person to vote. More positively and like in other Member States where voters must choose one ballot of a party, the Czech EMB provides voters with ballots in advance which permits them to choose beforehand.

International election observers noted that the system of picking the ballot of the party one wishes to vote for openly can compromise the secrecy of vote in general, for persons with or without disabilities, in Sweden and Spain.⁴⁶

⁴⁶ In Sweden ballots are placed outside polling stations and because voters might only take one ballot of choice and not all the ballots as per procedures. In Spain ballots are also available inside the polling booths and voters can bring from home the ballot they received by postal mail. Picking the ballot openly is just one option, but not the only one in Spain.

In Romania observers voiced concerns that in hospitals or social centres, pressure may be applied to voters, as the process is facilitated by the management of the institutions, even though the actual voting process is organized by representatives of the election commission.

As a good practice example voters in Ireland may vote independently using the ballot paper template which is supported through the provision of a telephone line which guides the voter through the list of candidates to assist in marking the ballot paper. Other than this, the voter would have to rely on assistance.

Free choice of assistance

Irrespective of the above-mentioned measures, certain persons with disabilities will require or prefer to vote with the assistance provided by another person. The CRPD is clear on the obligation to ensure the free choice of this person. However, some countries restrict this free choice.

In general voters with disabilities can freely choose another person to assist them in the act of voting in 25 EU Member States, except in Greece and Malta.

In Greece a voter can only request the assistance of the court representative, who is responsible for the electoral process of the polling station. In Malta the law requires election officials to assist voters with disabilities who require assistance to mark their ballots. This limitation can discourage voters with disabilities from participating in elections, particularly in small communities where everyone knows each other.

MAP: EU Member States in which persons with disabilities can ask for the person of their choice to assist them at the polling station

- **Countries allowing free choice of assistance** (25 – Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden)
- **Countries allowing assistance from the court representative** (1 – Greece)
- **Countries allowing assistance from election officials** (1 – Malta)

In some Member States restrictions exist whether a voter can ask for assistance including by the presiding officer (Cyprus, Croatia, Czechia, Denmark, Germany, Hungary, Netherlands⁴⁷), or excluding the presiding officer (Bulgaria, Latvia, Poland, Romania, Slovakia). Lacking the possibility of asking for assistance to vote to election

⁴⁷ For example, in the Netherlands assistance does not extend to people with intellectual disabilities.

officials may also discourage voters with disabilities who do not want to reveal their vote to their family members or friends.

There are other limitations in several Member States. For example, in Ireland the companion must be at least 16 years of age and may only assist a total of two voters. In Netherlands the right to request assistance does not extend to people with intellectual disabilities.

In Austria, DPOs criticise the role given to the presiding officer who is entitled to decide whether the assisting person presented by the voter is appropriate⁴⁸ or not. And in Cyprus a DPO⁴⁹ expressed its dissatisfaction at the fact that in the 2021 parliamentary elections, on a few occasions, the polling staff did not allow blind voters to be assisted by the person accompanying the voter.

Voters in Italy who cannot exercise their right to vote autonomously can be accompanied by a trusted person, or a family member, although in some cases they will require a medical certificate issued by the local health authority.⁵⁰ Persons with intellectual disabilities have the right to vote but cannot be assisted in the ballot booth. Only persons with severe reduced mobility can be accompanied inside the booth. The three cases provided for by law are blindness, amputation of the hands, paralysis, or other impediments of similar gravity.

In France the accompanying voter can also enter the voting booth and put the envelope in the ballot box on their behalf. The assistant can also sign in their place with the handwritten mention: "The voter cannot sign himself/herself". An important limitation in the French law is that persons with disabilities can choose the person of their choice with the exception of their legal representatives and the staff of the residential institution they live in.

As a good example, in Spain the laws and regulations provide no criteria to qualify or exclude any person from assisting a voter. Therefore, voters are entirely free to choose the person they wish to assist them.

⁴⁸ The main argument is whether the voter can independently identify this person as their assisting person.

⁴⁹ CCOD

⁵⁰ By law, during election day, the local health units must guarantee that there is an adequate number of doctors in the various municipalities.

Chapter 5: Municipal elections – EU mobile voters' perspective

EU citizenship gives every EU citizen the right to vote and stand as candidate in municipal and European Parliament⁵¹ elections regardless of whether they are a national of the EU country in which they reside, and under the same conditions as nationals.⁵² However, two restrictions exist. First, a Member State may decide that only its own nationals are eligible to run for head of the executive body of a basic local government unit. Second, if more than 20% of the eligible voting population are non-nationals, a Member State may require an additional period of residence to take part in municipal elections. Luxembourg is the only Member State that uses this derogation and only gives the right to vote to mobile EU citizens who have had their legal domicile in Luxembourg and have resided there at least five years before registration.

According to Eurostat, on 1 January 2018, there were 17.6 million persons living in one EU Member State with the citizenship of another EU Member State.⁵³ In order to be included on the electoral roll for the European and municipal elections, EU citizens resident in another Member State must produce the same documents and information as voters who are nationals. These requirements vary considerably across the EU, especially regarding residence requirements. Some countries require voters to have their domicile or usual residence within the electoral territory (Estonia, Finland, France, Germany, Poland, Romania, and Slovenia), to be ordinarily resident there (Cyprus, Denmark, Greece, Ireland, Luxembourg, Slovakia, Sweden), or to be listed in the population register (Belgium). Some Member States stipulate a minimum required period of residence (Cyprus, Czechia, and Luxembourg).⁵⁴

In addition to meeting general eligibility and registration requirements, EU citizens wishing to register to vote in their Member State of residence need to submit, among other information, a formal declaration confirming that they have not been deprived of the right to vote in their home country and that they will exercise the right to vote only once.⁵⁵ While the prevention of double voting is a valid objective, the additional requirement for EU citizens resident in another Member State to make a formal declaration before each election can in practice amount to a barrier to their participation. Given the differences concerning the right to vote to persons with

⁵¹ As EU law provides EU citizens living in another Member State with the right to vote in the European elections, citizens may choose whether to vote for the EP elections in their EU country of residence or in their home country but may not vote more than once in the same election.

⁵² This right is enshrined in Article 22(1) of the Treaty on the Functioning of the European Union. The detailed arrangements for the exercise of this right are laid down by Council Directive 94/80/EC: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018DC0044>

⁵³ On 1 January 2018, the number of people residing in an EU Member State with citizenship of a non-member country was 22.3 million, representing 4.4 per cent of the EU-28 population.

⁵⁴ Data from the [Electoral Procedures Factsheet](#), EP, 2019.

⁵⁵ Article 9 of Council Directive 93/109/EC also requires the declaration to state nationality, address in the Member State of residence and the locality of last entry on the electoral roll in his/her home Member State.

disabilities under guardianship, two people with the same disability may have different voting rights in a municipal election if one of them is from another country, thus breaching the most basic right of mobile voters.

A total of 13 Member States (Denmark, Estonia, Finland, Ireland, Latvia, Luxembourg, Malta, Netherlands, Portugal, Romania, Slovakia, Spain, and Sweden) did not restrict any office in their local administration to their own nationals, and two Member States (Poland and Slovenia) only impose restrictions for the heads of their local administration. Six Member States restricted all offices above member of the executive committee (Belgium, Cyprus, Czechia, France, Italy, and Lithuania), and two Member States (Bulgaria and Greece) adopted all permitted restrictions.⁵⁶

Many Member States carry out activities to inform mobile EU citizens of their electoral rights in municipal elections. In some Member States EMBs send polling cards or individual letters informing mobile EU citizens about the electoral process and provide electoral information on their official website. Luxembourg, Spain, and Malta organise campaigns specifically targeting foreign nationals to raise electoral awareness. Latvia has a dedicated 'helpline'.

As good practice in Malta there are facilities to make it easier for voters with a disability to vote, including mobile EU citizens (braille templates for the ballot paper, audio recorders at polling booth, and voting instructions written and read in Maltese and English). The Maltese Local Councils Act was amended to enable national and mobile EU citizens residing in retirement homes and hospitals to vote inside in these premises. Also, if justified, EU citizens can also cast their vote a week before election day.

In some Member States language issues of information arise. In Denmark other EU citizens who have the right to participate in municipal election are automatically registered as voters. The same information is available to all registered voters both Danish and other EU citizens, however official websites are mainly in Danish language. Similarly, in Croatia, European voters have to register for voting before elections but all available information on how to register is in Croatian. In Czechia only the Law on Elections to the European Parliament explicitly requires relevant information to be available in the procedural EU working languages, English, French, and German.

There are, however, some good municipal practice examples as the city of Zagreb (HR) offers sound recordings of the lists of candidates and voting instructions for the blind and partially sighted. In Stockholm the Municipal Election Board offers language assistance and reimburses the assistant for the time accompanying the person in exercising their right to vote.

⁵⁶ See Report from the Commission to the EP, the Council, the EESC and the Committee of Regions, [COM\(2018\) 44 final](#), p.9;

However, in some cases, like in Spain, the reasonable accommodation provided for other elections (e.g., Braille kits) is not available for local elections.

Chapter 6. Cases bringing change

Suffrage rights

Judicial activism by DPOs and committed policymakers resulted in the recognition of the voting rights of some 600,000 EU citizens, based on several legal changes just before the 2019 European elections in Germany, France, Spain, Denmark, and Lithuania.

In France the initiative of a member of the National Assembly supported by DPOs led to the repeal of an old decree and due to this measure an estimated total of 385.000 citizens above 18 years old under guardianship have recovered their right to be registered and vote in person in March 2019.

Also in 2019, the Constitutional Court in Germany ruled that general exclusions violate the principle of universal suffrage of the German basic law (Grundgesetz) according to which no one with disabilities should be disadvantaged. The ruling followed formal complaints by eight affected individuals, supported by two DPOs⁵⁷ and resulted in the first-time inclusion of an estimated up to 85,000 persons with disabilities in the federal elections in September 2021.

In Spain the pressure from DPOs and the reports of OSCE/ODIHR and the CRPD Committee contributed to a modification of the Electoral Code, supported by the legislative initiative from the Madrid assembly. The modification ensures that no person with disabilities can be deprived of the right to vote and those who were previously deprived would recover this right automatically. It is estimated that this modification allowed nearly 100,000 persons to vote in the European, local, and national elections in May 2019.

In Denmark years of advocacy work by DPOs led to a change of the rules for the right to vote for people under legal guardianship. In 2015 two persons sued the government because they were deprived of their right to vote since they were under full guardianship. In 2016, a law was introduced that made it possible for people under guardianship to vote in elections to the European Parliament, as well as for municipalities and regional councils.⁵⁸ When the case was still pending, the laws were changed and the Danish Supreme Court and the European Court of Human Rights in 2021 accepted the new provision. However, the law did not grant the right to vote in elections to the Danish Parliament or referendum as this would violate the Danish Constitution article 29. In December 2018 Denmark introduced partial

⁵⁷ Lebenshilfe and Caritas Behindertenhilfe und Psychiatrie.

⁵⁸ Due to the Danish Constitution article 29, it was not possible to give the right to vote for parliamentary elections for people under full guardianship. Denmark amended the law by introducing partial guardianship which reduced the number as people that were prevented to vote.

guardianship which facilitated the vote to the Danish Parliament and referendum for 1,900 citizens.

In Lithuania, following the CRPD Committee recommendations and due to the 2016 legal capacity reform, it has become more difficult to place someone under total guardianship. Subsequently, voting right for 4,192 persons were returned while 4,279 persons remain fully incapacitated before the law which is restricting their voting rights.

Besides broadening suffrage rights, the following good practice examples highlight the strengthening of accessibility rights and deepened consultations with DPOs on new legislation.

In Slovenia the accessibility of polling stations has been challenged in court proceedings, resulting in amendment of the legislation now explicitly providing that polling stations must be accessible to persons with disabilities. The European Court of Human Rights (ECtHR) ruled on 26 October 2021 that Slovenia had discriminated against two wheelchair users with muscular dystrophy in a 2015 referendum, because the country's courts had not allowed them to request accessible polling places ahead of the vote. However, the ECtHR stopped short of saying that polling places in Europe should be fully accessible in the future. Lawyers and representatives, are not satisfied with the ruling as it is undermining equality and consider an appeal.⁵⁹

In Ireland, a citizen with a visual disability alleged successfully at the Irish High Court that the absence of means to vote independently violated his right to vote in secret.⁶⁰ The plaintiff was successful and resulting in setting a DPO, the Voice of Visual Impairment, which continues its advocacy. Late last year the Electoral Reform Bill 2020 was published consolidating existing legislation and creating an EMB. Also as good practice, consultations have taken place as to the contents of the law, including compliance with Article 29 of the CRPD.

In Sweden the Authority for Participation has systematically evaluated the participation of persons with disabilities in elections. Their methodology has involved various stakeholders, including other authorities, DPOs and individuals, and has resulted in legislative and practical changes. Together with the Central Statistical Bureau's analysis of the latest elections, it will be possible to evaluate if these measures will result in a higher level of participation of persons with disabilities in elections. Whereas DPOs generally welcome these initiatives, they also express a certain scepticism that the measures taken will bring real change.

In Denmark a regular dialog exists between Ministry of the Interior and Housing and DPOs. Following the European Parliament Election 2019 the ministry organised a

⁵⁹ <https://www.lawsociety.ie/gazette/top-stories/2021/10-october/echr-ruling-has-europe-wide-implications-on-disability>

⁶⁰ It is the case of Sinnott v Minister for the Environment [2017] IEHC 214, the High Court.

lessons learned session with them. Based on that consultation the ministry sent a note to the municipalities and DPO's with recommendations on how to implement accessibility rules.

In Spain there are also examples of good practices that have been triggered by the legislative changes. One of the DPOs which participated in the consultative process for changing the electoral law also promoted different initiatives to facilitate the vote of persons with intellectual disabilities for the 2019 elections following the changes in the electoral law with a guide for political parties on how to adapt their electoral platform for easy reading.

In Malta the Ministry for Inclusion and Social Welfare, after discussions with DPOs, has drafted and signed a national action plan entitled "Freedom to Live: Malta's 2021-2030 National Strategy on the Rights of Disabled Persons", which includes actions to make elections more inclusive and to support candidates with disabilities.

the Netherlands Institute for Human Rights has been effectively monitoring the implementation of obligations of the Netherlands vis-à-vis persons with disabilities in relation to voting. A large coalition, including the government, political parties, and civil society, has been involved in the national action plan "accessible voting". The fact that parliament has voted in favour to allow temporary experimenting with different designs of the ballot papers is a direct result coming from the advocacy of the Dutch disability movement.

In Portugal the introduction of the Braille template in 2018 was considered outstanding and ground-breaking. It was the result of a law proposal submitted by the government before the parliament, which was subsequently approved, with the broad support of represented political parties. Additionally, DPOs claimed for an electronic system, especially relevant for citizens with cerebral palsy, and its pilot project was developed in a district with good results and in collaboration with the technology company IBM. However, electronic vote is not for now foreseen in the law in Portugal.

All these cases prove once again the meaningful participation of persons with disabilities and their representative organisations, supported by the collection of disaggregated data, and the cooperation of committed politicians and lawyers, make a difference in the realisation of the right to vote and stand for elections of persons with disabilities.

Chapter 7: Recommendations and Conclusions

In line with EU competences, in this final chapter we provide recommendations both for EU policy makers and national governments, as well as for EU level and national political parties.

Recommendations for EU policy makers

- **Reform the EU Electoral Act of 1976 to align it with the UN CRPD**

The EU Electoral Law of 1976 has been amended and supplemented on several occasions but never with the intention of putting it in alignment with the CRPD. Given that now the EU and all its Member States have ratified the Convention and considering that our societies have evolved, and citizens demand a more participatory EU democracy, we believe it is necessary to overhaul the current legal framework to address the political rights of persons with disabilities.

- **Ensure the right to vote and stand for election regardless of legal capacity status**

EDF, in line with the obligations enshrined in the CRPD article 12, is against any substitutive decision-taking regime at national level that deprives persons with disabilities of their legal capacity. Having said that, within the context of the participation of persons with disabilities in political life, it is of paramount importance that the EU provisions detail a common ground ensuring the right to vote and the right to stand as candidate. These provisions must guarantee equal political rights across EU countries, including for those whose legal capacity has been totally or partially removed at national level. This must be realised within the common rules and rights derived from the EU laws, namely the elections to the European Parliament and the rights of EU citizens who reside in another EU country as for municipal elections.

- **Guarantee alternative and advance means of voting**

The EU legal framework concerning European Parliament elections should guarantee that all voters enjoy equal opportunities to cast their vote. Having alternative and advance means for voting, such as postal voting, will benefit all voters and can be a very convenient solution for persons with disabilities too.

- **Obligation to maximise accessibility and provide reasonable accommodation**

Given the great diversity of voting systems across countries, the EU Electoral Law cannot set out specific accessibility requirements. However, the EU law can and must lay down the obligation for Member States to maximise the accessibility of their voting procedures, facilities and materials, so they can do so based on their voting system.

Additionally, and also based on their national voting system, EU countries must as well be required to provide additional appropriate means particularly for persons with disabilities to participate in the elections on an equal basis with others (see below).

By creating these obligations for Member States and allowing them to implement them based on their voting culture, the EU legal framework will be ensuring that many persons with disabilities can vote independently and in secret.

- **Free choice of assistance**

Since the EU and all Member States have ratified the CRPD, a common requirement which can be embedded in the EU Electoral Law is to guarantee the free choice of assistance to vote for persons with disabilities. This will ensure that no EU countries will restrict this right, and persons with disabilities will be able to choose who will assist them in casting their vote.

- **Guarantee the same level of rights for mobile voters**

The EU legal framework must guarantee that the same level of rights is ensured for EU citizens with disabilities living in another EU country, both for the European Parliament election and for municipal elections.

- **EU elections campaign**

The EU institutions must make sure that their campaigns to raise awareness about the EU elections, as well as any EU-level event, like candidates' debate is accessible to persons with disabilities.

- **Common accessibility rules for EU level political parties**

The EU could set out a minimum set of accessibility obligations to the European political parties in order to guarantee that their materials, communication, events and premises are accessible to persons with disabilities. This can be done by referring to existing EU legislation applicable at Member State level, such as the Web Accessibility Directive or the European Accessibility Act.

- **Meaningful consultation of persons with disabilities concerning EU elections**

As stated in the EU Disability Rights Strategy 2021-2030, the European Commission will work with the European Cooperation Network on Elections to develop a guide on good electoral practices. For this action to succeed, it needs the meaningful involvement of the European disability movement.

Recommendations to EU countries

- **Guarantee the right to vote and the right to stand as candidate in elections**

Adopt and amend the necessary legal acts to ensure that all persons with disabilities, without any exemption based on legal capacity status, can participate in elections on equal footing with others. EDF particularly urges Bulgaria, Cyprus, Estonia, Greece, Luxembourg, Poland and Romania, which automatically remove political rights when placing a person under total or partial guardianship to swiftly change this automatic deprivation of political rights.

Besides, EDF also calls all Member States except Austria, Denmark, Spain, Croatia, Italy, Netherlands and Sweden to withdraw or amend any provision that restricts the possibility for persons with disabilities to become candidates.

- **Support persons with disabilities who are candidates and elected representatives**

To ensure a broad representation of our societies, EU countries must set in place the necessary resources to support candidates with disabilities to campaign on equal footing with other candidates. Having this support available will encourage more persons with disabilities to be active in politics. If elected, and regardless of the level of government, public institutions must guarantee their right to effectively hold office and perform all public functions.

Particular attention must be given to the situation of women candidates with disabilities as they are more likely to suffer hate speech and harassment.

- **Collect disaggregated data with the aim of ensuring political rights of persons with disabilities**

EU countries will benefit from collecting disaggregated data, including by gender, age, and type of disability, concerning the participation of persons with disabilities in elections. This will facilitate the evaluation of the measures put in place for persons with disabilities, and can result in more effective and efficient solutions.

- **Enable alternative and/or advance means of voting**

All EU countries should facilitate the act of voting to all their citizens. To do so they should enable alternative and/or advance ways of voting, such as postal voting, early voting, or internet voting. EDF particularly calls Belgium, France, Cyprus and Greece to adopt these, as those who cannot physically go to the polling station on the election day are de facto excluded from participating in the elections.

- **Maximise accessibility of elections**

EU countries must revise their voting system, in collaboration with persons with disabilities and their representative organisations, to assess what changes could be

introduce in the voting procedures, facilities and materials so they become more appropriate, accessible and easy to understand and use. This does not mean that the country will need to change their voting system (whether it is a list system, a preferential vote system, or the single transferable vote system), but to introduce accessibility requirements to make the voting system more accessible. By doing so, it will be easier for all non-disabled voters too.

This can include:

- Voter registration in the case of Ireland and Cyprus.
- Design of the ballot papers to facilitate legibility, the task that the voter must perform to mark their vote, and to ensure that assistive tools can be used (see below).
- Polling stations, bearing in mind not only physical accessibility.
- Voting booths, which are useable by a broad range of people.
- Voting machines which software can easily incorporate accessibility features as many similar ICT devices like ATMs nowadays.
- Internet-based voting websites (or mobile applications) by complying with the web accessibility standard.
- Election information including by the Election Management Bodies.

The EU has in place several accessibility legislation and standards which can be of use to incorporate accessibility. For example, the Web Accessibility Directive and the European Accessibility Act lay down accessibility requirements for ICT, including websites. These legislations are supported by the technical accessibility standard EN 301 549⁶¹ that must be used in public procurement of websites, digital documents, software of even voting machines. Besides, the Accessibility Act includes accessibility requirements for the built environment and to adopt a universal design approach. In this regard, there are the European Standards EN 17210⁶² on the accessibility and usability of the built environment, which can be used for polling stations, and the EN 17161⁶³ on Accessibility following a design for all approach, which can guide the revision of all the elements of the elections.

By introducing accessibility requirements in the elections, EU countries will also be guaranteeing the secrecy of the vote of many persons with disabilities, as they will be able to cast their vote independently.

- **Provision of reasonable accommodation**

⁶¹ Harmonised European Standard 301 549 – Accessibility requirements for ICT products and services https://www.etsi.org/deliver/etsi_en/301500_301599/301549/03.02.01_60/en_301549v030201p.pdf

⁶² European Standard 17210 Accessibility and usability of the built environment - Functional requirements: https://standards.cencenelec.eu/dyn/www/f?p=CEN:110:0:::FSP_PROJECT,FSP_ORG_ID:65077,2274045&cs=1EBB531650B5200F9683431EC41E4AED1

⁶³ European Standard 17161 Design for All - Accessibility following a Design for All approach in products, goods and services - Extending the range of users: https://standards.cencenelec.eu/dyn/www/f?p=CEN:110:0:::FSP_PROJECT,FSP_ORG_ID:62323,2301962&cs=1AECBCDFF18BED2C84BA2E5FA7AF6E955

EU Member States must provide appropriate accommodation to guarantee the right to vote of persons with disabilities. The type of measures put in place will depend on the accessibility of the elections (see above) and the alternative or advance means of voting provided to all voters. In all cases, these appropriate measures will need to be discussed with organisations of persons with disabilities.

These appropriate measures can include alternative and advance means of voting just for persons with disabilities. By these we mean postal voting, early voting in accessible locations, mobile ballot boxes and the possibility to change polling stations so the voter with disabilities can choose a more accessible or convenient location. It is crucial that countries set up some of these methods to ensure that people living in residential or long-term care institutions, in hospitals or who cannot leave their homes will not lose their right to vote. Particular attention must be paid to people living in closed residential institutions like, for example, psychiatric hospitals.

Other measures of reasonable accommodation can include the provision of a wide range of assistive tools, such as Braille, audio and easy-to-read guides, Braille envelopes, tactile stencils, magnifying glasses, extra lighting, writing utensils and stamps, etc. The provision of human support through telephone or sign language interpretation, as well as accessible transportation to the polling station can also be important.

EDF also recommends national public administrations to alleviate as much as possible the administrative steps to request these measures.

By providing reasonable accommodation, many persons with disabilities will be able to vote independently and in secret.

- **Ensure free choice of assistance**

EDF recalls the obligation set out in article 29 of the CRPD and recommend all EU countries to ensure that persons with disabilities will be able to choose a person to assist them in casting the vote. In this regard, EDF urges Greece and Malta to remove the limitation of which only an election official can assist persons with disabilities. Furthermore, it is important that public authorities raise awareness about this right to all election officials.

- **Provide information to persons with disabilities**

National public authorities, including the Election Management Bodies, should provide information to persons with disabilities about the elections, the accessibility of the different elements of the elections (e.g. ballot papers, polling stations, voting machines, etc.), and the appropriate measures put in place for persons with disabilities. Such information should also be provided in an accessible manner, not only by, for example, ensuring that the website or digital documents are accessible, but also in specific accessible formats and means of communication for persons with disabilities like easy-to-read, Braille, large print, and national sign language.

- **Provide same political rights and equal access in all level elections**

Whether European, national, regional, local elections or referendum, Member States must guarantee the same political rights to persons with disabilities on every occasion citizens are required to vote or can stand as candidates.

- **Raise awareness among all election' commissions**

EDF recommends Member States to raise awareness about the rights of persons with disabilities and the measures put in place to guarantee their right to vote to all election commissions deployed for any given election. This will be important for the election officials to inform persons with disabilities on the polling stations about any appropriate measure available for them.

- **Adopt legal accessibility requirements for political parties**

EU Member States should introduce a minimum set of accessibility requirements for political parties. Particularly those political parties with high presence at national, regional or local level, and those receiving public funds, it is important that a minimum set of accessibility obligations is mandatory for them in order to guarantee that they will not be discriminating persons with disabilities or restricting equal access to the information they provide to all voters.

- **Adopt accessibility legislation concerning public media**

EU countries must ensure that public media applies accessibility for persons with disabilities, including key digital media, for example news' websites about public and political affairs in the country. When it comes to audiovisual media, whereas the Accessibility Act requires their website and mobile applications (among others) to be accessible, the 2018 Audiovisual Media Services Directive article 7 obliges public and commercial TV channels, and video on demand platforms to make their content progressively accessible to persons with disabilities. It is important that countries implement this European Directive by setting out quantitative targets, as well as quality standards⁶⁴, concerning the four main accessibility services for audiovisual services, namely subtitles for the deaf and hard of hearing, audio description, spoken subtitles and sign language interpretation. Likewise, and particularly during the elections campaign, it will be relevant to prioritise political affairs content and news, as well as making key audiovisual content, like TV political ads, interviews with candidates and candidate debates, accessible for persons with disabilities.

- **Work closely with persons with disabilities and their representative organisations**

Before applying any of the above recommendations, the most important of them is to meaningfully work with persons with disabilities and their representative

⁶⁴ For more information see EDF toolkit on the transposition of the Audiovisual Media Services Directive: <https://www.edf-feph.org/publications/accessibility-of-audiovisual-media/>

organisations in any reform or measure concerning the right to vote, the right to stand as candidates, and accessible elections for persons with disabilities. As we have proven in this report, the practices developed jointly by DPOs and public authorities have the best outcomes. By working and assessing together the elections system at national level and its specific legal and accessibility barriers, the most effective and efficient solutions will arise, and the measures put in place will fit their purpose.

Recommendations for political parties

- **Make information, meetings, events, and premises accessible**

Accessibility is a pre-condition for persons with disabilities, which represent 15% of the total population. Political parties must incorporate accessibility requirements in all their materials, communication channels, events and meetings, as well as premises. From the very basic starting point of applying accessibility in their websites, and social media communications, to the provision of additional accessible formats and means of communication for persons with disabilities.

For example, the electoral programme before the election should be provided in more than just one format, it should also be provided in easy-to-read. Important public events or meetings should be organised in accessible venues and include live subtitling and sign language interpretation. Same accessibility services should also be applied for videos to be broadcasted on TV or through social media.

Political parties should also provide reasonable accommodation when necessary, therefore, it is important that, for example, they ask their affiliates and guests whether they have any accessibility requirement before registering for a meeting or a means of communication with them.

- **Approach persons with disabilities and their representative organisations**

Political parties must actively approach persons with disabilities and their representative organisations to learn what are their political priorities, how to better communicate with them and to increase the participation of persons with disabilities in the party.

- **Include and support candidates with disabilities**

Political parties should reflect the societies they want to represent. For far too many years, persons with disabilities have been invisible as citizens, and still today there are very few policy makers with disabilities. Therefore, it is crucial that political parties also represent the political diversity among persons with disabilities. To do so, they must support the candidature of persons with disabilities and ensure they can campaign on equal footing with other candidates.

It is worth underlining that it is important that political parties facilitate and support the candidatures of women with disabilities, who represent 60% of persons with disabilities, and are also often underrepresented among policy makers.

List of Resources

List of resources on political participation of persons with disabilities

- United Nation Development Programme (UNDP), [Political Participation of Persons with Intellectual or Psychosocial Disabilities](#) (2021)
- [EDF position paper on the reform of the European Union Electoral Law](#) (2021)
- European Economic and Social [Committee opinion: the need to guarantee real rights for persons with disabilities to vote in European Parliament elections.](#)
- European Economic and Social Committee (EESC), [The real right of persons with disabilities to vote in European Parliament elections \(Information report\)](#) (2019)
- Organization for Security and Co-operation in Europe (OSCE), [Guidelines on Promoting the Political Participation of Persons with Disabilities](#) (2019)
- Parliamentary Assembly of the Council of Europe, [The political rights of persons with disabilities: a democratic issue](#) (2017)
- Fundamental Rights Agency (FRA), [The right to political participation for persons with disabilities: human rights indicators](#) (2014)

Endnotes

- 1 See the [United Nations' overview of countries that have ratified the CRPD](#)
- 2 Liechtenstein signed the Convention in September 2020.
- 3 General Comment No. 1, paras. 48-49.
- 4 CRPD General Comment No.6 Para. 70.
- 5 CRPD Committee, General Comment 2, para. 43.
- 6 [Article 3 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms](#).
- 7 The European Court of Human Rights is the legal body that interprets the European Convention of Human Rights and its Protocols and adopts judgments on cases alleging violations of these treaties by Member States of the Council of Europe.
- 8 EDF's article ["The European Court of Human Rights fails to protect the right to vote of persons with disabilities"](#).
- 9 EDF article on [the European Court of Human Rights supporting removal of the right to vote of people with intellectual disabilities in Spain](#).
- 10 Euractiv article: [EU court ruling fails to remove obstacles for voters with disabilities](#).
- 11 Dissenting Opinion of Judge Lemmens.
- 12 TEU articles 10 and 14, and TFEU articles 20, 22 and 223.
- 13 The [Election Act](#) was amended by Council [Decision 2002/772/EC](#) of 25 June and 23 September 2002. To date, this version of the Act remains in force.
- 14 Council [Directive 93/109/EC](#) of 6 December 1993, as last amended by Council [Directive 2013/1/EU](#) of 20 December 2012, which amends the provisions dealing with ineligibility to stand as a candidate.
- 15 See table of comparison in the Annex II.
- 16 [Article 22\(2\) TFEU](#) and Article 39 CFR; the arrangements for implementing this right were adopted under Council Directive 93/109/EC, following the introduction of the concept of EU citizenship in the 1993 Maastricht Treaty.
- 17 Article 1 of [Council Decision 2002/772/EC](#), Euratom.
- 18 The European Parliament also summarized some differences in [the national legal frameworks pertaining to elections on its website](#); compare European

Parliamentary Research Service (EPRS) [Infographic 2019 European elections: National rules](#).

- 19 In the Netherlands, citizens in the Kingdom countries of Aruba, Curacao, and Sint Maarten and in the municipalities of Bonaire, Sint Eustatius, and Saba are also entitled to participate in the European elections. France also grants the right to vote to citizens resident in French overseas departments and collectivises.
- 20 It has been an [OSCE/ODIHR observation](#) that enfranchisement based on marital status constitutes discrimination between citizens.
- 21 Three EU Member States (Estonia, France, Netherlands) entered a declaration, and one Member State (Poland) raised a reservation with respect to Article 12 of CRPD. This means that these countries will implement Article 12 in accordance with their respective national legislation, which in each case allows restrictions on the right to vote of persons deprived of legal capacity. Malta raised reservations with respect to Article 29 and thereby reserved the right to continue applying its existing electoral legislation in so far as voting procedures, electoral facilities and materials, and assisted voting are concerned.
- 22 In Lithuania the civil law has been recently amended, so that only persons that are legally incapacitated specifically for elections cannot vote or be elected. In Poland, the Polish Senate, on the basis of a Helsinki Foundation for Human Rights petition, has been proceeding a legislative initiative to allow persons with intellectual disabilities, which are incapacitated, to vote in EP elections. The legislative procedure is on early stage.
- 23 See Fundamental Rights Agency (FRA) Report: [Who will \(not\) get to vote in the 2019 European Parliament elections? Developments in the right to vote of people deprived of legal capacity in EU Member States](#) (February 2019).
- 24 In Denmark, the law did not grant the right to vote in elections to the Danish Parliament or referendum as this would violate the Danish Constitution article 29.
- 25 European Economic and Social Committee opinion: [the need to guarantee real rights for persons with disabilities to vote in European Parliament elections](#).
- 26 In Denmark, the law did not grant the right to vote in elections to the Danish Parliament or referendum as this would violate the Danish Constitution article 29.
- 27 [Freedom to Live – Maltese national disability strategy 2021-2030](#) (pdf file).

- 28 As of July 2019, the European Parliament has not released official data about how many voters have been registered for the 2019 elections or how many European citizens were eligible to vote. In the 2014 elections, 396 million voters were registered in the 28 Member States. For the 2019 European elections, media reported more than 426 million eligible voters. See: [European Parliamentary Research Service \(EU EPRS\) Review of European and National Election Results](#) 2014-2019 Mid-term January 2017; p.38; and [Politico article "European election: The essential guide"](#).
- 29 According to interactively self-aggregated data from the statistics office's website In Lithuania, there were 230 000 persons officially declare as having disability in 2020.
- 30 In Bulgaria electronic voting was available in parallel to paper voting as an option in 3,000 polling stations. In Portugal an electronic voting pilot project was carried out in one district with some 50 polling stations.
- 31 Voters are required to mark their preference numerically, with their number '1' being interpreted as the vote for the party as well as their preferred candidate. This is the single transferable vote system.
- 32 In the case of Latvia, on the ballot paper alongside the names of the candidates, a voter may mark "+", if he/she especially supports the respective candidate, may not make a mark (place an unchanged ballot paper without marks into the ballot envelope), or strike out the given name if he/she does not support the candidate.
- 33 Only those with officially confirmed severe or moderate disability. To access it one need to put a motion and attached a copy of a valid decision of the competent authority on the degree (severe/moderate) of disability. Due to the COVID-19 pandemic a recent legal amendment (Article 53a par. 1a Election Code) extended this provision to people in isolation or quarantine on the voting day and those over 60 years of age.
- 34 To facilitate voting in hospitals, homes for elderly persons and in special-care homes the chairperson together with 3 other staff from a polling station can form a mobile team.
- 35 International standards for democratic elections require ensuring the secrecy and equality of the vote and respect for voters' choices; see: Article 25 of the ICCPR; General Comment to Article 25, paras 20-22; the 1950 Convention for Protection of Human Rights and Fundamental Freedoms, Protocol 1 of 1952, Article 3.
- 36 [Directive \(EU\) 2016/2102 of the European Parliament and of the Council of 26 October 2016](#) on the accessibility of the websites and mobile applications of public sector bodies.

- 37 The election webpage conforms with W3C WAI WCAG guidelines and is compatible with screen reader software. Visitors can also change the contrast and the font size under the Accessibility option on top of the page.
- 38 Citizen-led election observers in Romania assessed that 66% of polling stations are considered accessible.
- 39 A new law on accessibility of public buildings was voted in the national parliament in 2021. DPOs expect 100% of polling stations to be accessible for the next elections in 2023.
- 40 Including documents in EPUB format and accessible PDF, HTML and MP3 formats.
- 41 [Directive \(EU\) 2018/1808 of the European Parliament and of the Council of 14 November 2018](#) amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.
- 42 Audio subtitles read the subtitles aloud benefiting blind and partially sighted. They were developed in cooperation with the Finnish Federation of the Visually Impaired.
- 43 In Luxembourg is only offered in the capital city and not in all municipalities. In Romania, for EU elections one is not allowed to change the polling station due to disability reasons. One can vote in any other polling station, outside the locality, but this is a general rule for any voter.
- 44 Namely, those ballots are in large format (approximately 60 x 40 cm - depending on number of lists), and in the Braille version it would translate to 12 pages.
- 45 Deutschen Blinden- und Sehbehindertenverbandes e.V. (DBSV)
- 46 In Sweden ballots are placed outside polling stations and because voters might only take one ballot of choice and not all the ballots as per procedures. In Spain ballots are also available inside the polling booths and voters can bring from home the ballot they received by postal mail. Picking the ballot openly is just one option, but not the only one in Spain.
- 47 For example, in the Netherlands assistance does not extend to people with intellectual disabilities.
- 48 The main argument is whether the voter can independently identify this person as their assisting person.
- 49 CCOD

- 50 By law, during election day, the local health units must guarantee that there is an adequate number of doctors in the various municipalities.
- 51 As EU law provides EU citizens living in another Member State with the right to vote in the European elections, citizens may choose whether to vote for the EP elections in their EU country of residence or in their home country but may not vote more than once in the same election.
- 52 This right is enshrined in Article 22(1) of the Treaty on the Functioning of the Union. The detailed arrangements for the exercise of this right are laid down by [Council Directive 94/80/EC](#).
- 53 On 1 January 2018, the number of people residing in an EU Member State with citizenship of a non-member country was 22.3 million, representing 4.4 per cent of the EU-28 population.
- 54 Data from the [Electoral Procedures Factsheet](#), EP, 2019.
- 55 Article 9 of Council Directive 93/109/EC also requires the declaration to state nationality, address in the Member State of residence and the locality of last entry on the electoral roll in his/her home Member State.
- 56 See Report from the Commission to the EP, the Council, the EESC and the Committee of Regions, [COM\(2018\) 44 final](#), p.9.
- 57 Lebenshilfe and Caritas Behindertenhilfe und Psychiatrie.
- 58 Due to the Danish Constitution article 29, it was not possible to give the right to vote for parliamentary elections for people under full guardianship. Denmark amended the law by introducing partial guardianship which reduced the number as people that were prevented to vote.
- 59 Law Society Gazette Ireland, [article “ECHR ruling's 'Europe-wide implications' on disability”](#) (27 October 2021).
- 60 It is the case of Sinnott v Minister for the Environment [2017] IEHC 214, the High Court.