**Cases considered by non-judicial complaints bodies**

Indicators on political participation

of persons with disabilities

2014

DISCLAIMER: The background country information reports contain background material for the comparative report on *The right to political participation for persons with disabilities: human rights indicators* by the European Union Agency for Fundamental Rights (FRA). The bulk of the information in the background country information reports comes from ad hoc information reports prepared under contract by the FRA’s research network FRANET. The views expressed in the background country information reports do not necessarily reflect the views or the official position of the FRA. These reports are made publicly available for information purposes only and do not constitute legal advice or legal opinion.

**Have non-judicial complaints mechanisms considered cases related to the right to political participation of persons with disabilities?**

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| **EUMS** | **Source and supporting information** |
| AT | In the course of the Election of the National Assembly 2008 and the Election of the Austrian President 2010 redress procedures were claimed by persons with disabilities because of barriers entering polling stations. The involved parties came to an agreement. These agreements were reached in the course of conciliations. Persons with disabilities who claim to have been discriminated against may request conciliations at the regional offices of the Federal Social Office *(Bundessozialamt)*. However, the barriers at these polling stations were not removed subsequently.[[1]](#footnote-1) Moreover, the Disability Ombudsman reported3 complaints by persons with disabilities because of problems with the right of political participation which could get settled through intervention by the Ombudsman[[2]](#footnote-2). No detailed information on these cases was provided.According to § 28(1) of the Elections to the Parliament Act and §16(1) Election to the European Parliament Act every (EU-) citizen has the right to complain against the electoral register. The same applies to all the Municipal Election Acts[[3]](#footnote-3). The scope of these provisions does not do not foresee complaints on a failure to provide reasonable accommodation. |
| BE | The service UNCRPD of the CEOOR mentioned that they receive around 2-3 complaints following each election, mostly in relation to refusal of accommodation and accessibility of the voting bureaus or voting booth.[[4]](#footnote-4) |
| BG | From the annual reports[[5]](#footnote-5) of the national Ombudsman in the part "Complaints of persons with disabilities", no complaints related to violation of the political rights of persons with disabilities are available. There are single complaints in the Protection from Discrimination Commission concerning the access to the polling stations. After such complaints during the 2006 presidential elections, the Commission fined with BGN 2,000 (appr. EUR 1,000) the Minister of State Administration and Administrative Reform Nikolay Vassilev because he unfulfilled his obligation to ensure access to polling stations for persons with disabilities. In 2009 the fine was revoked by the Supreme Administrative Court. [[6]](#footnote-6) |
| CY | No decisions were found.[[7]](#footnote-7) |
| CZ | The Public Defender of Rights for access of guide and assistant dogs into public spaces made a recommendation[[8]](#footnote-8) stating that any ban on the entrance of guide or assistant dogs into public buildings, including polling stations, is discriminatory.  |
| DE | In Germany, no mechanisms such as Ombudsman exist. The NHRI does not deal with individual complaints. Additionally, petition committees (Federal and *Länder*) could not provide key decisions. |
| DK | No cases known. |
| EE | There are no national non-judicial redress mechanisms following consultation with the Estonian Chamber of Disabled People and with the Estonian Electoral Committee and a review of the annual human rights reports.[[9]](#footnote-9)  |
| EL | At the time of request, no decisions had been identified with regard to the right to political participation of people with disabilities. No such information was included in the websites or reports of the Ombudsman and the National Commission for Human Rights. This was confirmed by the National Confederation of People with Disabilities.However, the recent Ombudsman reports for the year 2013 the investigation of a case that concluded to a more systematic intervention as regards the political participation of persons with intellectual disability[[10]](#footnote-10). The case was submitted by the father of a 26 year old person with an intellectual disability (Asperger) who was judicially recognised under subsidiary guardianship. After the publication of the Decision, the Decision was directly transmitted to the competent electoral service of the ministry of Interior and the complainant was excluded from the electoral registers. As a result, despite the fact that the complainant was participating in previous electoral procedures, suddenly and without any previous notification, in the elections of May 2012 he could not participate due to fact that he was not included in the electoral registers. According to the Constitution (article 51 par. 3) “*The law may restrict the right to vote only if not completed minimum age or legal incapacity or as a result of irrevocable criminal conviction for certain crimes* ". In addition, according to presidential degree (article 5 PD 96/2007) the right to vote may be restricted only for persons recognised under full subsidiary guardianship. The Ombudsman stressed in its intervention the constitutional protection provided to persons with disabilities (article 21 par. 1) and the protection provided by the Convention for the rights of persons with disabilities (article 29 of L4074/2012), concluding that the restriction of the electoral right of the complaint consists of a breach of the law. The Ombudsman asked the direct re-registration of the complainant to the electoral registers and the checking of all relevant cases transmitted by the Courts in the past. The ministry of Interior responded in due time and reassured that all the previous decisions will be checked and that a more credible procedure is already implemented in the transmission of the data by the Courts in order to avoid the repetition of such cases in the future. |
| ES | Several decisions of the Central Electoral Commission (the superior and permanent body of the so called Electoral Administration (see article 8 LOREG) - organ established under the LOREG to guarantee that electoral processes are correctly carried out) have been found on the subject.Particularly interesting are cases 330/159[[11]](#footnote-11) and 330/157,[[12]](#footnote-12) which have identical rulings:In these caes, the Central Electoral Commission considered that the availability of ballot papers in braille for blind people during the local elections (the legislation only refers to general elections, elections to the European Parliament and referendums) would suppose considerable complications and costs**,** due to the large number of entities involved and the fact that the municipalities elaborate the papers themselves. Moreover, it considers that in the meantime the current method, allowing blind voters to use a trusted person to exercise their right to vote, is sufficient. Mention should also be made of case 330/166[[13]](#footnote-13) regarding the complaint of an individual who was denied the right to be a member of the election committee because of being deaf, while having requested a sign language interpreter. In particular, the Board decided: “In as much as the request was submitted within the established term, the voter who lodged the complaint should have been entitled to the requested sign language interpreter**.** In this respect and in compliance with the referred legal provision, the District Electoral Board should have requested the Government’s Subdelegation to provide a Spanish sign language interpreter during election day”. This means the persons concerned must request the services of an interpreter on time for this right to be fully effective (see articles 4 and 9 RD 422/2011).[[14]](#footnote-14)Another 11 decisions regard information requests and petitions to the Central Electoral Commission concerning the right of persons with visual impairment to vote using braille ballot papers.Except for two (non relevant) cases, all these decisions are previous to 2007, and the Central Electoral Board referred to the existing rules at that time to refuse braille ballot papers, asking voters to use an assistant when voting,[[15]](#footnote-15) according to the contents of Article 87 of the LOREG. As mentioned above, this article was amended in 2007 by Organic Act 9/2007 to regulate a specific voting procedure for people with visual impairments**.**According to the President of APSOCECAT (Catalan Association for Deafblind People), it would not be necessary to have all the ballot papers available in Braille in advance, but only the ones directly requested by voters with disabilities, considering they can be immediately printed with a suitable printer (a method which could be used for all electoral processes, including local elections).To this regard, The Ministry of the Interior, in cooperation with ONCE, ran a non-binding pilot project (*Prueba piloto de papeletas accesibles*) in a polling station during the Parliamentary Elections of 2011 using the accessible ballot papers software, with the previous authorization of the Central Electoral Commission. The Ministry provided a PC, with a screen reading software, and a printer. Blind and visually impaired voters could use the device (set in in a special room) to select the Congress ballot paper, a regular one, not in Braille, and print it.[[16]](#footnote-16) |
| FI | No information was found.[[17]](#footnote-17)The annual reports and the decision databases of the Parliamentary Ombudsman (*Eduskunnan oikeusasiamies/Riksdagens justitieombudman*)[[18]](#footnote-18) and of the Chancellor of Justice (*Oikeuskansleri/Justitiekanslern*)[[19]](#footnote-19), do not mention decisions dealing with the right to political participation of persons with disabilities during the last five years. |
| FR | The Public Defender of Rights (*Défenseur des droits -* DDD) rendered a decision in January 2012 regarding the respect for the principle of ballot secrecy for blind and visually impaired people.[[20]](#footnote-20) The DDD was referred to by a mayor [from which place is unspecified in the decision] who was a member of an association dealing with blind and visually impaired people (Valentin Haüy) and who raised the issue of discrimination against blind and visually impaired persons. The mayor stated that the voting systems they have to deal with have the effect of preventing the respect of confidentiality of voting. The DDD decision took the form of recommendations to enable these people to exercise their vote independently in elections. The DDD recommendations are divided into four parts: i) information before the election, ii) polling stations, iii) ballot papers and voting table, iv) electronic vote, and, additionally, awareness. i) On information before the election the DDD recommends that political parties give a phone number and an email address to blind and visually impaired people to provide them with information before the election; designing a guide to help candidates to make their campaign material accessible to these people is also suggested (citing the example of a website which complies with W3C standards, with legible and contrasting characters, and a flash code on the documents).ii) With regard to the polling station, the DDD recommends making easy to read information panels outside (giving an indication of the size of the characters to be used); it suggests putting in place an appropriate path from the door of the polling station to the place to vote, with specific lighting. iii) With regard to the ballot paper the DDD recommends large and highly contrasting characters; it suggests to put in place a system with a flash code on the ballots that people could scan, as an experiment for the next local elections in 2014. Otherwise, the DDD recommends putting up easy to read panels with the names of candidates to facilitate voting. iv) With regard to electronic vote, the DDD recalls the provisions of the law, in particular the ministerial order of 17November 2003 dealing with the technical requirements for voting machines. The technical standards include provisions regarding access for persons with disabilities and on devices (hearing, touch, or other) to help visually impaired people to take all the necessary steps to cast their vote independently. The DDD suggests offering training to these people before the election day.Finally, with regard to awareness, the DDD emphasises the need to raise awareness of candidates, polling station presiding officers, people with disabilities, their family and friends and medical staff who deal with them. The DDD suggests training for the people who attend the electoral process on how to deal with persons with disabilities, for instance, through a fact sheet. The DDD recalls that it is possible to prepare the vote at home with a trusted person.  |
| HR | No complaints related to infringements of the right to political participation of persons with disabilities were recorded in 2012. In relation to the local elections of the 19th of May 2013, two such complaints were recorded but, according to the NEC, the complaints were not lodged in time for the problem to be redressed.[[21]](#footnote-21) The Office of the Ombudswoman for Persons with Disabilities received the same two complaints. The Office communicated its written recommendation to the NEC in order to prevent infringements in future elections.[[22]](#footnote-22)Furthermore, on the 13th of February 2012, Office of the Ombudswoman for Disability sent a written opinion and recommendation to the Ministry of Public Administration (*Ministarstvo uprave*) in relation to the electoral legislation. In summary, the recommendations were:- to introduce legal provisions that would assure accessibility of polling stations and support for persons with disability, including those with motoric problems, visual and hearing impairment, and persons with intellectual impairments;- to introduce legal provisions that would allow the exercise of voting rights for persons living in long-term residential social welfare institutions in a manner similar to that provided for other categories of voters located outside of their permanent residence place on the election day;- to guarantee active and passive voting rights for persons deprived of legal capacity, in accordance with the CRPD.On the 4th of September 2012, the Office of the Ombudswoman for Disability sent a written opinion and recommendation in relation to the draft of the Act on Voter Registry to the Ministry of Public Administration, asking for the provisions facilitating registration for users of all residential social welfare institutions, as well as the removal of exclusionary provisions in relation to persons deprived of legal capacity.On the 4th of October 2012, the Office of the Ombudswoman for Disability sent a written opinion and recommendation in relation to the draft of the Act on Voter Registry to the Croatian Parliament, and competent parliamentary committees to demand the nullification of exclusionary provisions related to persons deprived of legal capacity. [[23]](#footnote-23) |
| HU | * An NGO initiated an *actio popularis* case before the Equal Treatment Authority in 2011 against a local municipality, claiming that a local polling station was not accessible for persons with disabilities. The case ended in a friendly settlement between the municipality and the NGO. The municipality undertook that the public institution maintained by the municipality in which the polling station was placed will be made accessible.

The information provided by the Equal Treatment Authority does not specify whether the complaint concerned the national or the municipal elections, but since in 2010 both national and municipal elections were held, it is reasonable to assume that the same polling stations were used in the course of both of the elections. There is no official reference; the friendly settlement was not published. [[24]](#footnote-24)* In 2009, the former Parliamentary Commissioner for Civil Rights[[25]](#footnote-25) (*állampolgári jogok országgyűlési biztosa*) initiated an *ex officio* investigation and published a report (OBH-2405/2009[[26]](#footnote-26)) on problems regarding access to information and accessibility of polling stations for the European Parliament elections and the exclusion of persons with mental disabilities under guardianship from suffrage.

The report concluded that election procedures, facilities and information materials were not accessible for persons with physical or intellectual disabilities, which violated the Convention on the Rights of Persons with Disabilities.[[27]](#footnote-27) There is no information indicating that the report resulted directly in any policy measures, etc. The reasoning of the Election Procedure Act (drafted after the report of the Parliamentary Commissioner for Civil Rights was issued) does not refer to the report. * In 2011, six Hungarian citizens with intellectual disability brought their complaint to the UN CRPD Committee[[28]](#footnote-28) after having been unable to vote in 2010 in the parliamentary and municipal elections. Indeed under a provision of the Constitution applicable at the time of the complaint[[29]](#footnote-29), all persons under guardianship were automatically excluded from voting. Hungary changed its constitution in 2012, and the current Fundamental Law[[30]](#footnote-30) now requires judges to make a decision on suffrage based on an individual assessment (as mentioned [previously).

However, the CRPD Committee[[31]](#footnote-31) found that this was still in breach of the Convention on the Rights of Persons with Disabilities: *“Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any groups of persons with disabilities”* […] *“Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability.”* The CRPD Committee said that Hungary was obliged to reinstate the six complainants on the electoral roll, and recommended to prevent similar violations by considering repealing an article in the Hungarian Fundamental Law[[32]](#footnote-32) and also an article in the Transitional Provisions to the Fundamental Law[[33]](#footnote-33) that are contrary to the CRPD Convention. The CRPD Committee called on Hungary to enact laws that recognize the right to vote for all persons with disabilities without any “capacity assessment”, *“and provide for adequate assistance and reasonable accommodation”.* |
| IE | The Ombudsman has power to investigate complaints against public bodies under Part 3 of the Disability Act 2005, which includes a failure to comply with the obligation in section 27 of the Disability Act 2005 to ensure that services are accessible for people with disabilities. The Ombudsman does not publish details of all complaints received. However, the website of the Ombudsman does refer to some case studies and sample cases in which complaints were investigated. None of the case studies referred to relate to complaints by voters with disabilities.[[34]](#footnote-34)The Equal Status Acts 2000 to 2011 outlaw discrimination by public and private sector organisations when providing goods and services to which the public generally have access. The Acts outlaw discrimination on nine distinct grounds, one of which is disability. Complaints can be made to the Equality Tribunal for breach of the Equal Status Acts. The Equality Tribunal has a database of decisions from 1996 to 2013. However, a search of this database for decisions regarding voting and persons with disabilities did not yield any results.[[35]](#footnote-35) |
| IT | The main non judicial bodies are the regional Ombuds institutions (*Difensori Civici regionali*). Citizens can address complaints about inefficiency, bad functioning of public administration and discrimination to the regional Ombudsmen. People with disabilities can apply whenever Public Administration or providers of public service do not respect accessibility criteria or, in any forms, discriminate people with disabilities. Regional Ombuds institutions cannot take decisions, but they provide information and give advice to public officials, administrators and providers of public service in order to prevent and solve any discrimination affecting people with disabilities[[36]](#footnote-36).In 2013 the Ombusdman of the Tuscany Region has facilitated the granting of Italian citizenship to a second-generation migrant deprived of legal capacity, following the rejection of the request addressed by the father to the prefecture. The Regional Ombudsman contested the rejection based on the incapacity of the minor to express his will, making reference to previous decisions (see indicator 23) and to the art. 3 of Constitution, affirming that the rejection would represent a discriminatory act.The regional Ombudsman of Emilia-Romagna set up an office devoted to the protection of rights of people with disabilities[[37]](#footnote-37). |
| LT | There is no national human rights institution established in Lithuania yet. With regards to Equality Bodies’ decisions, in 2012 no complaints were received nor decisions taken with regards to the right to political participation of persons with disabilities.[[38]](#footnote-38)The Seimas Ombudsmen‘s office in the year 2012 received one complaint with regards the right to political participation of persons with disabilities. The applicant complained that the right to political participation was restricted because they had not received any written or oral information on where and how to vote at the national elections. The complaint was denied since it was not CEC and Department of Disabilities Affairs at the Ministry of Social Security and Labour responsible for informing the voters (even if the applicants are disabled) about where to vote.[[39]](#footnote-39) The complainant should have filed a complaint with their polling district committee (“The voter who has not received a poll card in due time or who has received a poll card with incorrect data, must forthwith inform the polling district committee within the territory of which (s)he resides, and produce his/her passport or other document confirming his/her identity to the electoral committee.”[[40]](#footnote-40)) |
| LU | Following consultation of the legal service of the specific department of the Ministry of family and Integration, Info-Handicap, “Only with us” (*Nëmme mat eis*), the Ombudsman, and the CET (Centre for Equal Treatment), no complaints have been filed. |
| LV | According to legislation, the Ombudsman's Office considers the applications of persons about human rights violations, including restrictions or violations of the rights to political participation. The Ombudsman's Office has not received any complaints about the violations or restrictions of the right to political participation of persons with disability.[[41]](#footnote-41) Additionally, nor the Central Election Commission, nor the Union of Disabled and their Friends "Apeirons" have information about any decisions by non-judicial bodies dealing with the right to political participation of persons with disabilities.[[42]](#footnote-42) |
| MT | In 2013, The Deaf Persons Association lodged a complaint with the KNPD (National Commission Persons with Disability) regarding the lack of Maltese sign language interpretation in the national television during election broadcasts. KNPD contacted the Broadcasting Authority and the Public Broadcasting Services to remedy the situation and as a result, the Broadcasting Authority included Maltese Sign Language Interpretation in all its election broadcasts.[[43]](#footnote-43) In addition, in its capacity as the regulator of the national television station, the Broadcasting Authority decided on the complaint lodged by the Deaf Persons Association. However, the complaint relating to the lack of Maltese sign language during television political debate programmes was not upheld. It ruled that in the circumstances prevailing at the time, the Public Broadcasting Services (PBS) running the television station could not provide more sign language interpretation than it had, in order to include all important political debates.[[44]](#footnote-44) As a result of the above complaint, the Broadcasting Authority included Maltese Sign Language Interpretation in all its official scheme of election broadcasts. However, the Broadcasting Authority ruled that a televised political debate produced by a private company but broadcasted by PBS, the national television station, did not have the resources to provide more sign language interpretation than it had.[[45]](#footnote-45) |
| NL | There are no decisions of the National Ombudsman or the national human rights institution related to the right to political participation of persons with disabilities.The Electoral Code does not fall under the remit of the national human rights institution (Netherlands Institute for Human Rights, *College voor de Rechten van de Mens*). A search of the database of the Netherlands Institute for Human Rights was conducted which yielded no results.[[46]](#footnote-46) |
| PL | The Human Rights Defender, as well as the Government Plenipotentiary for Disabled Persons, has campaigned for adjusting the polling stations to the needs of persons with disabilities, and for changing the voting regulations so as to improve the standards of execution of the voting rights by persons with disabilities. Numerous official letters[[47]](#footnote-47) regarding those issues were addressed to the Ministry of Administration and Internal Affairs, Ministry of Justice, National Election Commission, Sejm’s Legislative Commission and Spokespersons of both chambers of the Polish parliament.In each and every of these statements and letters the Human Rights Defender underlined the importance of adjusting the forms of voting to the needs of voters with disabilities. For instance, in March 2009, three months before the elections to the European Parliament, in the letter[[48]](#footnote-48) addressed to the Chairman of the National Election Commission, the Human Rights Defender requested to consider the possibility of marking the voting cards in a way which may help to vote blind voters or voters with sight disorders. After the elections, in July 2009, the Human Rights Defender addressed a letter[[49]](#footnote-49) to the Prime Minister pointing out the main dysfunctions of the previous Act on Elections, such as poor standards or lack of standards concerning the accessibility of polling stations for persons with disabilities, lack of facilitation for blind voters or voters with sight disorders. Since 2011 comprehensive research has been carried out including i.e. election law and practise analyses, quantitative and qualitative (interviews with voters with disabilities) sociological research. The summary of the results from the Human Rights Defender’s research activities was published in September 2012 in the report “The guarantees of the right to vote for elderly persons and persons with disabilities. Analysis and Recommendations (*Gwarancje korzystania z czynnego prawa wyborczego przez osoby starsze i osoby z niepełnosprawnościami. Analiza i zalecenia*)”. The recommendations were discussed at the seminar, which took place on March 5th of 2013 in the Human Rights Defender`s Office in Warsaw. The participants included the Chairman of the National Election Commission, a number of parliamentarians as well as experts in constitutional law, NGO representatives and citizens.The Human Rights Defender receives individual complaints from persons with disabilities regarding their political rights, but undertakes interventions usually of a general nature. The concrete statistics on the number of individual complaints are, however, unavailable. The representative of the Human Rights Defender assessed their number as rather low and intensifying in election periods.[[50]](#footnote-50) It’s worth underlining that on the basis of one of complaints, in December 2012, the Human Rights Defender submitted a claim to the Constitutional Tribunal seeking for a declaration of Article 492 § 1 point 6 of the Electoral Code as unconstitutional. |
| PT | No non-judicial decisions dealing with the right to political participation of persons with disabilities. |
| RO | Both the National Council for Combating Discrimination (*Consiliul Naţional pentru Combaterea Discriminării*, CNCD)and the Ombudsperson stated they had no case law on the right to political participation of persons with disabilities.[[51]](#footnote-51) The relevant authorities have not received any complaints from persons with disabilities regarding their electoral rights.[[52]](#footnote-52)However, the media has reported voting restrictions for the persons with disabilities. For instance, in one case,[[53]](#footnote-53) a person with a physical disability officially requested a mobile ballot box for the day of the national referendum – July 29, 2012, but received a response on July 17, 2012 advising him to submit a written request a day before the referendum to the polling station. The affected person stated that he was unable to vote in the last years because the polling station is placed in a school that does not have facilities for persons with physical disabilities. |
| SE | There is no National Human Rights Institution in Sweden. People with disabilities can access redress and complaint mechanisms in cases where they have not been able to exercise the right to vote by making a complaint to the Equality Ombudsman (*Diskrimineringsombudsmannen*).Inadequate accessibility, however, is not included in the Discrimination Act (*Diskrimineringslagen*) (also see under 12, 16 and 24). Between June and September 2009, the Equality Ombudsman (*Diskrimineringsombudsmannen*) received four complaints about the lack of accessibility at polling stations and voting places during the European elections of 2009.[[54]](#footnote-54). The Ombudsman found that premises used in the four reported municipalities were indeed inaccessible to people who use wheelchairs[[55]](#footnote-55). The Ombudsman argued that in light of the requirements of the Election Act and the UN Convention on the Rights of Persons with Disabilities the cases should be forwarded to the relevant authorities in order to make them aware of the shortcomings that had emerged.[[56]](#footnote-56)In Gothenburg, worksite trailers had been used as voting places for people voting in advance. Since the worksite trailers had three steep steps it was not possible for the complainant to use a wheelchair to get into the room. In Mora, the complaint considered that the voting shield at the polling station, which should allow for voting in privacy, was placed too high up and thus was not suitable for people who use wheelchairs. In Nacka, it was not possible for the complainant who uses an electric wheelchair to get into the voting room because the entrance was too narrow. In Södertälje the complainant had to use a side door that had a high threshold because it was impossible to get through the entrance to the polling station[[57]](#footnote-57). In all cases, the municipalities had ignored the duty to request permission from the County administrative boards *(länsstyrelsen*) to use these inaccessible premises.[[58]](#footnote-58) The county administrative boards had thus no opportunity to exercise their mandate according to the Election Act Chapter 3 Section 3 and Chapter 4 Section 20.[[59]](#footnote-59) |
| SI | Human Rights Ombudsman:1.5-6/2010In 2006, upon request by parents, the district court issued, in non-litigious proceedings, a decision extending the parents’ parental rights after their child attained 18 years of age on the ground of the child’s lack of independence. In 2010, on its own motion, the court issued amended decision depriving the child of the right to vote stating that this part of the decision was omitted by error. The parents did not agree with the latest decision and sought the Ombudsman’s opinion stating that the child regularly followed media, was interested in politics and already had voted in the past elections. The Ombudsman established that the parents’ complaint was justified and that the court’s decision was not issued in accordance with the law. In the Ombudsman’s opinion, it did not follow from the court’s decision that the court carried out a separate procedure to establish whether the child is capable of understanding the meaning, purpose and effect of elections.[[60]](#footnote-60) The relevant Ombudsman’s annual report says the following: “We have not heard from the complainants since our actions, so we assume that their son was able to exercise his voting right in local elections.”[[61]](#footnote-61)1.5-9/2012In 2012, at the time of presidential elections, a person lodged a complaint with the Ombudsman claiming that their access to a polling station was prevented by the stairs, whereas the polling station in question had been put on the list of accessible polling stations. The affected individual also lodged an objection with the National Electoral Commission. As the Ombudsman opined that the complaint could be justified, they addressed a request for clarification to the Commission. The National Electoral Commission provided a response by the responsible district electoral commission that the affected individual was allowed to vote at home. The latter also promised to immediately take steps for proper accommodation of the polling station.[[62]](#footnote-62) Advocate of the Principle of Equality0700-2/2013/1, before 0921-87/2011-UEMAt the time of the early parliamentary elections in 2011, a person lodged a complaint with the Advocate alleging unequal treatment on the part of the National Electoral Commission of persons with disabilities with regard to access to information and effective exercise of active electoral rights. The complainant pointed to the lack of information provided by the commission in question, particularly on its website (e.g. missing information on manners of exercising the right to vote of persons with disabilities, provided in a transparent manner and in one place; lack of information on how to apply for voting at polling station accessible to persons with disabilities; because of technical issues, existing information was hardly accessible or not accessible to persons with disabilities, particularly persons with visual impairments). Upon analysis of electoral materials as well as the Commission’s website, the Advocate noted that provided information lacked coherence, was insufficient and was not available in formats accessible to persons with disabilities. With the assistance of a person with visual impairments, the Advocate further established that information provided by the Commission is not accessible to this population.[[63]](#footnote-63) In the Advocate’s opinion, these omissions amount to indirect discrimination on the ground of disability and they issued recommendations to the Commission on how to address the problem. They reiterated that subjective intention is not necessarily a decisive element to a finding of discrimination (e.g. the commission stated the increase in participation of persons with disabilities as its objective), but that it is sufficient to establish disparate effects of certain measures or omissions.[[64]](#footnote-64) |
| SK | The Office of the Public Defender of Rights does not have access to non-judicial decisions dealing with the right to political participation of people with disability.[[65]](#footnote-65)The Slovak National Centre for Human Rights has not commented on the issue. The Institute for Labour and Family Research, The Slovak Disability Council and The Slovak Blind and Partially Sighted Union does not have access to non-judicial decisions dealing with the right to political participation of people with disability.[[66]](#footnote-66) |
| UK | In 2012, the Equality and Human Rights Commission (Karon Monaghan QC) submitted written legal advice about job sharing for MPs to Disability Rights UK who put forward the Representation of the People (Members' Job Share) Bill, the aim of which is to enable more people to become MPs who may not be able to do so at present because of their disabilities or their caring responsibilities. [[67]](#footnote-67)In November 2012, the Bill failed to complete its passage through Parliament before the end of the session. This means the Bill will make no further progress.[[68]](#footnote-68) |

1. Austria, Wegscheider, A. (2013), ‘Political Participation of Persons with Disabilities’, SWS-Rundschau Vol. 53, No 2, pp. 216-234. No further case references available. [↑](#footnote-ref-1)
2. Information provided by the Austrian Disability Ombudsman *(Österreichische Behindertenanwaltschaft)* on 11 July 2013 in a response to an information request. [↑](#footnote-ref-2)
3. Austria, Act on municipal election in the province of Burgenland, LGBl No.54/1992, [§23(1)]; Austria, Act on municipal election in the province of Carinthia, LGBl No. 32/2002, [§25(1)]; Austria, Act on municipal election in the province of Lower Austria, LGBl No. 112/1994, [§23(1)]; Austria, Act on municipal election in the province of Upper Austria, LGBl No. 81/1996, [§20(1)]; Austria, Act on municipal election in the province of Salzburg, LGBl No. 117/1998, [§27(1)]; Austria, Act on municipal election in the province of Styria, LGBl No. 59/2009, [§31(1)]; Austria, Act on municipal election in the province of the City of Graz, LGBl No. 86/2012, [§25(1)]; Austria, Act on municipal election in the province of Tyrol, LGBl No. 88/1994, [§28(1)]; Austria, Act on municipal election in the province of the City of Vienna, LGBl No. 16/1996, [§30(1)]; Austria, Act on municipal election in the province of Vorarlberg, LGBl No. 30/1999, [§12(3)]. [↑](#footnote-ref-3)
4. Information provided by the CEOOR, service UNCRPD. [↑](#footnote-ref-4)
5. National Ombudsman of Bulgaria; Annual Report of the Institution for 2012, available in Bulgarian: <http://www.ombudsman.bg/reports/2476#middleWrapper> [↑](#footnote-ref-5)
6. Informational web-site Econ.BG; article concerning the case from 2009, available in Bulgarian: [http://m.econ.bg/%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8/%D0%92%D0%90%D0%A1-%D0%BE%D1%82%D0%BC%D0%B5%D0%BD%D0%B8-%D0%BD%D0%B0%D0%BB%D0%BE%D0%B6%D0%B5%D0%BD%D0%B0-%D0%B3%D0%BB%D0%BE%D0%B1%D0%B0-%D0%BD%D0%B0-%D0%9D%D0%B8%D0%BA%D0%BE%D0%BB%D0%B0%D0%B9-%D0%92%D0%B0%D1%81%D0%B8%D0%BB%D0%B5%D0%B2\_l.a\_i.166059\_at.1.html](http://m.econ.bg/%D0%9D%D0%BE%D0%B2%D0%B8%D0%BD%D0%B8/%D0%92%D0%90%D0%A1-%D0%BE%D1%82%D0%BC%D0%B5%D0%BD%D0%B8-%D0%BD%D0%B0%D0%BB%D0%BE%D0%B6%D0%B5%D0%BD%D0%B0-%D0%B3%D0%BB%D0%BE%D0%B1%D0%B0-%D0%BD%D0%B0-%D0%9D%D0%B8%D0%BA%D0%BE%D0%BB%D0%B0%D0%B9-%D0%92%EF%BF%BD%25) [↑](#footnote-ref-6)
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[eestis-2011/](http://humanrights.ee/inimoiguste-aruanne-2/inimoigusedeestis-2011/). [↑](#footnote-ref-9)
10. Response to the request for data of the NFP ref. no.45455/01.11.2013 [↑](#footnote-ref-10)
11. Case no. 330/159: In accordance with the decision of the plenary meeting of the Provincial Council of Córdoba, a proposal of the group IU-LVCA is forwarded requesting the Government to establish a procedure guaranteeing the secrecy of the ballot to persons with disabilities during the upcoming local elections [*De conformidad con lo acordado por el Pleno de la Diputación Provincial de Córdoba en sesión de 16 de febrero, remite Proposición del Grupo IU-LVCA instando al Gobierno a que regule un procedimiento que garantice el secreto del voto a las personas con discapacidad en las próximas elecciones municipales]*: [www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda?\_piref53\_1181264\_53\_1181255\_1181255.next\_page=/jec/detalleDoctrina&idDoctrina=10857](http://www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda?_piref53_1181264_53_1181255_1181255.next_page=/jec/detalleDoctrina&idDoctrina=10857) (accessed on 10/07/2013). [↑](#footnote-ref-11)
12. Case no. 330/157: Request for the adoption of adequate measures allowing persons with a visual disability to vote with secrecy guaranteed during the upcoming local and autonomic elections [*Solicitud de que se adopten las medidas oportunas para que las personas con alguna discapacidad visual puedan votar con garantía del secreto de voto en las próximas elecciones locales y autonómicas]*: [www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda?\_piref53\_1181264\_53\_1181255\_1181255.next\_page=/jec/detalleDoctrina&idDoctrina=10817](http://www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda?_piref53_1181264_53_1181255_1181255.next_page=/jec/detalleDoctrina&idDoctrina=10817) (accessed on 10/07/2013). [↑](#footnote-ref-12)
13. Case no. 330/166: Complaint by a private citizen regarding the denial of the right to be a member of the election committee due to being deaf, while having requested a sign language interpreter [*Protesta de un particular por no habérsele reconocido el derecho a ser miembro de Mesa electoral por su condición de persona sorda habiendo solicitado intérprete de lengua de signos]*: [www.congreso.es/portal/page/portal/
JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda/BusquedaAvanzada?\_piref53\_1181273\_53\_1181268\_1181268.next\_page=/jec/detalleDoctrina&idDoctrina=13420](http://www.congreso.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda/BusquedaAvanzada?_piref53_1181273_53_1181268_1181268.next_page=/jec/detalleDoctrina&idDoctrina=13420) (accessed on 10/07/2013). [↑](#footnote-ref-13)
14. <http://www.infoelectoral.mir.es/Normativa/RD_4222011_25marzo.htm> (accessed on 02 01 2014) [↑](#footnote-ref-14)
15. By way of example mention can be made of case 330/114 of 10/03/2005: [www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda/BusquedaAvanzada?\_piref53\_1181273\_53\_1181268\_1181268.next\_page=/jec/detalleDoctrina&idDoctrina=16644](http://www.juntaelectoralcentral.es/portal/page/portal/JuntaElectoralCentral/JuntaElectoralCentral/DocJEC/Busqueda/BusquedaAvanzada?_piref53_1181273_53_1181268_1181268.next_page=/jec/detalleDoctrina&idDoctrina=16644) (accessed on 06/09/2013). [↑](#footnote-ref-15)
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24. Written information provided by the Equal Treatment Authority in its letter dated 8 July 2013. [↑](#footnote-ref-24)
25. As of 1 January 2012, by virtue of the Fundamental Law and related legislation, the former four Ombudspersons of Hungary (including the Parliamentary Commissioner for Civil Rights) were replaced by the sole Commissioner for Fundamental Rights (*alapvető jogok biztosa).* [↑](#footnote-ref-25)
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27. See [www.szmm.gov.hu/download.php?ctag=download&docID=21701](http://www.szmm.gov.hu/download.php?ctag=download&docID=21701) (report) and <http://www.ajbh.hu/documents/10180/124840/fogyatekosugyi.pdf/7749cdf2-c4da-45ca-9de3-acb348b2bbac?version=1.0> (project) [↑](#footnote-ref-27)
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