

EQUALITY

The right to political participation for persons with disabilities: human rights indicators



FRA

EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS



This report addresses matters related to the principle of non-discrimination (Article 21), the integration of persons with disabilities (Article 26), the right to vote and to stand as a candidate at elections to the European Parliament (Article 39), the right to vote and to stand as a candidate at municipal elections (Article 40) falling under Titles III 'Equality' and V 'Citizens' rights' of the Charter of Fundamental Rights of the European Union.

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Executive summary and opinions

The right to political participation, including persons with disabilities, is firmly grounded in international law, enshrined in the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD), Council of Europe instruments and European Union (EU) primary and secondary legislation.

The European Union Agency for Fundamental Rights (FRA) and the European Commission-funded Academic Network of European Disability Experts (ANED) have collected data from across the 28 EU Member States, which show how the right to political participation of persons with disabilities set out in Article 29 of the CRPD is respected, promoted and fulfilled across the EU. Political participation is broad: the data presented in this report in the form of human rights indicators focus on elections and the rights to vote and to be elected, as guaranteed by the European Convention on Human Rights (ECHR), the Charter of Fundamental Rights of the EU and the EU treaties.

The first message stemming from FRA's and ANED's analysis is positive: given an accessible and enabling environment, persons with disabilities are active citizens keen to be engaged in the political life of their communities. As well as voting in elections, persons with disabilities take part in other types of political activity in large numbers, including being members of political parties, attending political meetings and contacting elected officials. Providing more accessible information and processes, as well as better support and reasonable accommodation – that is, adjustments to allow persons with disabilities to enjoy their human rights on an equal basis with others – can further improve their participation.

A second message is that despite these encouraging signs, significant challenges remain for the realisation of the right to political participation for persons with disabilities. Legal obstacles, such as restrictions on the right to vote for some persons with disabilities, and gaps between the promise of law and policy and their actual implementation – for example in the form of inaccessible polling stations or websites – persist. These barriers can exclude persons with disabilities from the opportunity to influence the development and implementation of the laws and policies which shape their daily lives. Addressing these challenges as soon as possible is essential to increasing the legitimacy of public institutions and creating more equitable and inclusive societies in which all members can participate fully.

A third message is that barriers to political participation do not affect all persons with disabilities equally. Those with more severe impairments, as well as people with

particular types of impairment – for example, persons with intellectual disabilities – disproportionately face barriers to their participation in political life. As these individuals are often some of the most isolated and excluded, ensuring that they are able to play a full part in the political process presents a particular challenge for policy makers.

Reflecting the CRPD requirements in this area, and drawing on the results of the research, five issues emerge:

- lifting legal and administrative barriers to political participation;
- making voting procedures, facilities and election materials more accessible;
- expanding opportunities for participation in political and public life;
- increasing awareness of the right to political participation of persons with disabilities;
- collecting data to measure the political participation of persons with disabilities.

Based on these findings, FRA and ANED have formulated opinions for each of these issues, which suggest concrete measures that EU institutions and Member States can take. The specific indicators of relevance to each finding are highlighted in brackets in the text below.

Lifting legal and administrative barriers to political participation

EU Member States have made significant progress in integrating the right to political participation of persons with disabilities into their national legal and policy frameworks.¹ The findings of the analysis indicate, however, that legal and administrative barriers continue to prevent some persons with disabilities from participating in political life on an equal basis with others. These barriers concern:

- legal restrictions on the right to vote of some persons with disabilities particularly those with psychosocial or intellectual impairments;
- inaccessible and cumbersome administrative processes which can prevent persons with disabilities from voting in practice;

¹ See FRA (2013a); and FRA (2012a).

- difficulties accessing complaints mechanisms in cases where persons with disabilities face problems in exercising the right to vote.

The analysis shows that in the majority of EU Member States, the decision to deprive persons of their legal capacity automatically bars them from voting (see indicator 2.2.1). Existing concluding observations² and the general comment on Article 12 of the CRPD³ make clear the CRPD committee's view that national legislation depriving people of the right to vote based on a disability, or a proxy such as assessed 'capacity', should be reformed.

Inaccessible administrative processes linked to elections can also hinder persons with disabilities' participation. In some EU Member States, the procedures for persons with disabilities to request support or assistance to vote are not accessible (see indicator 2.2.2). Similarly, persons living in institutions can be prevented from voting by a lack of mechanisms to enable them to vote (see indicators 2.2.3 and 2.2.4).

The corollary of a right is the opportunity to make a complaint when the right is not realised. The analysis indicates, however, that people deprived of legal capacity are legally not able to bring complaints related to political participation in a majority of EU Member States (see indicator 2.4.1). Moreover, instances of complaints mechanisms deciding cases related to the political participation of persons with disabilities were identified in only a quarter of EU Member States (see indicators 3.2.2 and 3.2.3). As demonstrated by FRA research in other areas, one factor behind the low number of cases reaching complaints mechanisms is likely to be the lack of accessible information about how and where to complain (see indicator 3.2.1).⁴

Opinions

The EU has concluded the CRPD, and its law and policies must comply with the EU Charter of Fundamental Rights. The European Commission regularly reports on the implementation of Council Directives 93/109/EC and 94/80/EC which set out detailed arrangements for the exercise of the right to vote and stand as a candidate in elections for the European Parliament and in municipal elections. Future reports on the implementation of both directives should include an assessment of whether they are being interpreted in a manner consistent with the right to political participation enshrined in Article 29 of the CRPD.

As shown in FRA's Annual report covering 2013 and the Disability High Level Group reports since 2010, many

2 All Concluding Observations are available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=4.

3 UN, Committee on the Rights of Persons with Disabilities (2013a).

4 See FRA (2009), and FRA (2012b).

EU Member States have or are developing national action plans or strategies in the area of disability rights. These policies should include specific measures to promote the political participation of persons with disabilities, along with concrete targets and milestones against which progress in implementing the relevant CRPD provisions can be measured.

Delinking the right to vote from legal capacity

In many EU Member States, the right to vote continues to be linked to legal capacity, so that persons deprived of their legal capacity cannot vote in European Parliament or municipal elections. FRA's 2010 report on The right to political participation of persons with mental health problems and persons with intellectual disabilities, updated in subsequent FRA Annual reports, found that some Member States will need to reform their legislation to meet the CRPD standards. In line with the concluding observations of the CRPD Committee, EU Member States should amend national legislation depriving people of the right to vote based on a disability, or a proxy such as assessed 'capacity'.

As stated in the European Disability Strategy 2010–2020, the European Commission is promoting the conformity of Member State legislation on legal capacity with the CRPD. This could continue to take place through the High Level Group of Experts on disability where EU Member State representatives can share experiences of developing and implementing legal reforms in this area.

Removing administrative barriers

National public authorities should ensure that the requirement to register to vote or for reasonable accommodation does not result in persons with disabilities being excluded from elections. Actions in this regard could include measures ensuring that the registration process is accessible by redesigning relevant websites in line with EU standard EN 301549, which is in line with internationally recognised accessibility standards (e.g. the World Wide Web Consortium's Web Content Accessibility Guidelines (WCAG) 2.0 AA), and by making information available in alternative formats such as easy-to-read, large print or Braille.

Persons living in long-term institutions who cannot reach a polling station should be enabled to vote through alternative forms of voting. These voting methods must ensure the secrecy of the vote and that persons with disabilities can make a free choice of candidate or party to support without undue influence from others.

Making complaints procedures effective

Complaints mechanisms, both judicial and non-judicial, should be made more accessible for persons with disabilities. One important step would be to lift restrictions

on the right of persons deprived of legal capacity to bring complaints independently of their guardian. However, measures should also be taken to make sure that information about how and where to complain is accessible to all persons with disabilities through the production of information materials in different formats. This information should be distributed through support and advocacy organisations for persons with disabilities, including disabled persons organisations (DPOs).

Finally, as outlined in the 2011 FRA report *Access to justice in Europe: an overview of challenges and opportunities* and the 2012 FRA report *Access to justice in cases of discrimination in the EU: steps to further equality, allowing civil society organisations (CSOs), including DPOs, to bring claims to court could be an important step to enforcing political rights. Strict rules relating to legal standing often prevent CSOs from taking a more direct role in litigation in cases of fundamental rights violations.*

Making voting procedures, facilities and election materials more accessible

Most EU Member States have accessibility standards for the construction and renovation of public authority buildings (see indicator 2.3.3), while around half have accessibility standards for polling stations (see indicator 2.3.4). It is very difficult, however, to assess the implementation of these standards, due to a lack of robust and comparable data on the accessibility of buildings in practice (see indicators 4.2.1 and 4.2.2). Where data are available, its reliability is undermined by a lack of consistent criteria for assessing accessibility and a focus on the needs of persons with physical impairments (see indicator 3.1.3).

Although electoral legislation in most EU Member States requires that assistance in voting is available to persons with disabilities, in some this is only available to persons with physical or sensory impairments (see indicator 2.3.5). Moreover, it is not always possible for the actual person with the disability to choose who they would like to assist them.

Many EU Member States have established legal accessibility requirements for providers of information over the internet and the broadcast media, although in a large number of cases these requirements only apply to public information providers (see indicators 2.3.1 and 2.3.2). In practice, however, this research shows that election-related media remains largely inaccessible to persons with disabilities.

Furthermore, examples of party manifestos in accessible formats were identified in half the Member States but with a lack of consistency; often only one or two

parties had provided information in accessible formats and then frequently only in a format suitable for certain types of impairment (see indicator 4.2.5).

Opinions

Although legal accessibility standards are in place in many EU Member States, measuring the accessibility of the environment is hindered by a lack of common EU criteria setting out what constitutes an accessible building. In keeping with their responsibilities under Article 9 (2) (a) of the CRPD, state parties – both the EU and the Member States – should develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public, including public authority buildings. These criteria should encompass the accessibility needs of all persons with disabilities, not just those with physical impairments. The European Commission continues to support and supplement national activities, including through the second phase of the Standardisation Mandate M/420 on accessibility to the built environment.

Where persons with disabilities require support to vote, the law should provide for assistance in voting by a person of their choice. Such assistance should be available to all persons with disabilities, at their request.

EU Member States should encourage media providers to increase the accessibility of their output. Websites should be designed in line with EU accessibility standard EN 301549, while media outputs can be made more accessible through subtitles, sign language interpretation and audio descriptions, preferably following EU standards. To achieve this, Member States could consider strengthening legal and policy measures on media accessibility, for example by setting measurable targets for accessibility and broadening the scope of existing legislation to cover private as well as public providers. The EU can facilitate this process by supporting the implementation of the Audiovisual Media Service Directive which prompts Member States to encourage media service providers to ensure that their services are made more accessible to people with visual or hearing impairments.

In the run-up to elections, communication material which provides instructions for voting and information on candidates should offer clear explanations in simple language, and be easily available in different formats. Member States should also ensure that funding is available for the provision of accessible information throughout the electoral process.

Political parties should provide their manifestos and other campaign materials in alternative formats, which reflect the needs of persons with different types of impairments including easy-to-read, videos with subtitles or sign language interpretation, Braille and large print. Political

parties can also increase the opportunities for persons with disabilities to participate in their activities by taking steps to make their events more accessible, for example by checking the accessibility of meeting places and providing sign language interpretation.

Expanding opportunities for participation in political life

Closely consulting and actively involving persons with disabilities, through their representative organisations, in policy development and law making is an obligation under the CRPD; yet, it is not formalised as a requirement or systematic practice in all EU Member States (see indicator 3.1.1). The analysis shows that public authorities increasingly consult with and involve disabled persons organisations (DPOs) as these authorities take steps to implement the CRPD – a Europe-wide promising practice that should be expanded and deepened further. There is great scope to engage organisations of persons with disabilities in reviewing and resolving the challenges outlined in this report.

An important indication of the opportunity for persons with disabilities to participate in public life is the number of persons with disabilities elected to public office. This research shows, however, a lack of evidence about the extent to which people with disabilities have been able to take advantage of the opportunity to be elected to the European Parliament, national parliaments or municipal governments (see indicators 4.1.1 and 4.1.2).

Opinions

EU Member States and the EU institutions should closely engage persons with disabilities, including through their representative organisations, in decision-making processes concerning issues relating to persons with disabilities. To this end, Member States and EU institutions should strengthen existing mechanisms for involving DPOs, including by setting up advisory or consultation bodies. These should include a significant proportion of DPOs reflecting different groups of persons with disabilities. Representatives of persons with disabilities should be full members of such bodies, on an equal basis with others, and should be provided with the necessary resources in a way that supports them to participate in a meaningful way without compromising their independence.

EU Member States and EU institutions should ensure that opportunities to participate in consultation processes concerning the development of law and policy affecting persons with disabilities are clearly and widely publicised using accessible communications. Member States should ensure that DPOs can provide input in other formats such as Braille or easy-to-read. Public hearings and committee meetings discussing proposed legislation should be made accessible through, for example, the

removal of physical barriers and the provision of sign language interpreters.

Schemes to ensure that candidates or prospective candidates have the same opportunities to run for elected office as others should be considered by EU Member States. These could include financial and other support to account for the additional resources persons with disabilities may need to campaign effectively, as well as steps to remove physical and other obstacles which impede access to buildings where political activities take place. Once in office, elected officials with disabilities should be provided with the reasonable accommodations required to allow them to carry out their tasks on an equal basis with others.

Reasonable accommodations tailored to the needs of the specific individual may be necessary even in an environment that is accessible. Making these accommodations requires information on the needs of elected officials. Such data collection must, however, comply with legally established safeguards to ensure confidentiality and respect for the privacy of persons with disabilities.

Increasing awareness of the right to political participation of persons with disabilities

FRA and ANED data show a lack of training and awareness among key stakeholders, such as election officials, political parties, public authorities and media providers, on how to realise the right to political participation of persons with disabilities. In all but one EU Member State, the analysis shows that training for election officials which covers non-discrimination on the grounds of disability, accessibility and reasonable accommodation is not required by law (see indicator 2.3.4).

DPOs play a major part in raising awareness among public authorities of the rights of persons with disabilities and can continue to do so through the further development of consultation mechanisms at all levels of government. It is also essential that persons with disabilities themselves, particularly those with more severe impairments, are aware of the right to vote and participate in political life. Persons with disabilities can then challenge the practices and procedures which undermine their opportunity to realise these rights in practice.

The data on the accessibility of information and campaign materials suggest a need to increase the capacity of political parties and media organisations to make their outputs more accessible (see indicators 4.2.3, 4.2.4 and 4.2.5). Similarly, the inaccessibility of polling stations and public authority buildings indicates a need to increase the capacity of relevant public authorities to



check the implementation of building regulations on accessibility, as well as to develop detailed and standardised guidelines for assessing building accessibility in practice (see indicators 4.2.1 and 4.2.2).

Opinions

EU Member States should take concrete steps to develop the capacity of public authorities to monitor effectively the implementation of building regulations concerning accessibility, ensuring that adequate resources are allocated to bodies responsible for ensuring compliance with accessibility requirements. The European Commission should assist this process by continuing to support the development of EU-standardised guidelines for assessing the accessibility of buildings, taking into account the needs of all persons with disabilities.

Member States should ensure that election authorities as well as officials charged with supervising elections at the local level receive comprehensive training on non-discrimination on the grounds of disability, accessibility and reasonable accommodation. The training should also cover the respective national legal provisions regarding the provision of assistance to persons with disabilities during voting, as well as the procedures for requesting assistance or support. To ensure that training addresses the barriers experienced by persons with disabilities, DPOs should be involved in its design and implementation, including through joint initiatives by election authorities and DPOs.

Member States should undertake activities to increase awareness among persons with disabilities about the electoral process. This can be achieved through citizenship education projects to educate persons with disabilities about their political rights, as well as the development of self-advocacy groups. Awareness-raising activities should also cover long-term institutions where persons with disabilities live.

To increase the capacity of political parties and media organisations to make their outputs accessible for persons with disabilities, Member States could develop – in conjunction with DPOs – practical guidelines on how to produce accessible manifestos, communication materials and broadcasts.

Collecting data to measure the political participation of persons with disabilities

The research was based on existing data collected from publicly available sources in the 28 EU Member States. The data collection process and analysis revealed three key issues:

- a lack of systematic data collection;

- an absence of standards and guidelines for measuring accessibility, especially in a way that can yield comparable results across the EU;
- concerns about existing methodologies for capturing the experiences of persons with disabilities.

In many cases, particularly concerning the outcome indicators presented in Chapter 4, it was not possible to populate, in other words to collect data for, the indicator as originally devised. These indicators, which represent important measures of the political participation of persons with disabilities, currently remain ‘ideal’ indicators; these will only be fully populated when further data are collected. Even where data were available, the lack of a common understanding of disability and the absence of harmonised EU standards for assessing accessibility made cross-country comparisons difficult.

The exclusion of certain persons with disabilities from current survey data underlines the need to ensure that data are targeted, comparable and can be broken down, for example, by age, gender and type and severity of impairment so that they accurately and reliably capture the experiences of those with disabilities.

Opinions

In keeping with their obligations under Article 31 of the CRPD, the EU and the Member States should undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the provisions of the convention relating to political participation.

Reflecting the actions outlined in the European Disability Strategy 2010–2020 and the social inclusion objective of the EU 2020 Strategy, the European Commission should work to harmonise information on disability collected through EU social surveys (EU Statistics on Income and Living Conditions, Labour Force Survey ad hoc module, European Health Interview Survey), with regular collection of comparable data on barriers to the social inclusion of persons with disabilities, including political participation.

To ensure that data are comparable across the EU, EU institutions and the Member States could work together to develop commonly agreed guidelines for measuring the fundamental rights situation of persons with disabilities. This could start with further developing common guidelines for measuring accessibility.

EU institutions with a mandate to collect data should support and supplement Member States’ efforts to collect statistics and data that reflect the barriers which prevent persons with disabilities from participating fully in political and public life. This should include the further development and implementation of data collection methodologies that are inclusive of all persons with disabilities, including those with more severe impairments.

Introduction

The United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD), which the European Union (EU) and 25 Member States have ratified as of March 2014, considers that “disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others”. This full and effective participation in society includes participation in the political process.

This report aims to show how the right to political participation of persons with disabilities set out in Article 29 of the CRPD is respected, promoted and fulfilled across the EU. It presents data collected by the European Union Agency for Fundamental Rights (FRA) and ANED with the support of the European Commission on key issues associated with elections and the right to vote, presented in the form of human rights indicators. While the analysis concentrates on the participation of persons with disabilities in European Parliament and municipal elections, many of its findings are also applicable to national, regional and local elections. The results are also relevant to older persons who may face many of the same barriers to political participation experienced by persons with disabilities. In this way, the report provides policy and decision makers involved in the organisation and preparation of elections with evidence to inform actions to realise the political rights of all parts of the population.

FRA is part of the EU-level monitoring framework set up under Article 33 (2) of the convention to “promote, protect and monitor” the implementation of the convention. FRA’s role in the framework is to collect and analyse data, and to develop benchmarks and indicators. FRA has undertaken comparative legal and social research on the rights of persons with disabilities since 2009, beginning with a project focused on the rights of persons with mental health problems (psychosocial disabilities) and persons with intellectual disabilities.⁵ The five reports stemming from this project focus on different aspects of autonomy and inclusion, including the right to political participation,⁶ non-discrimination of persons with mental health problems and reasonable accommodation,⁷ involuntary placement and involuntary treatment,⁸ independent living,⁹ and legal

capacity.¹⁰ The analysis presented in this report builds on this previous work, drawing in particular on the findings of the reports on political participation and legal capacity. Political participation can take many forms, from involvement in political parties and civil society organisations to following the news. This report focuses on two of the core components of political participation: the rights to vote and to be elected. These rights are particularly important for the functioning of the EU which, as set out in Article 2 of the Treaty on European Union (TEU), is “founded on the values of [...] democracy [...] and respect for human rights”. The elections to the European Parliament every five years are one of the main avenues for citizens’ participation in the Union,¹¹ while being able to vote in municipal elections in the EU Member State in which a person lives is a key demonstration of the principle of free movement of people.

Social survey data show that across the EU, almost one quarter (23 %) of the adult population declares that they are limited in their daily activities by a “physical or mental health problem, illness or disability”.¹² Within this large proportion of the population, there is great variety in the extent to which impairments impact on daily life. The group of people who report severe limitations on their daily activity is smaller, accounting for about 7.5 % of the population, but their needs will often be significant.¹³ These people are likely to be those who are most excluded from the political process.

The European Parliament elections taking place on 22–25 May 2014 are an opportune moment to take stock and examine how relevant national legal, policy and administrative provisions encourage or hinder persons with disabilities from participating in elections.

The legal and policy framework

The right to political participation is set out in numerous international instruments, beginning with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. These documents, and the interpretation provided by the bodies in charge of their implementation and monitoring, provide a set of developing and reinforcing norms concerning the right to political participation.

5 For more information on this project, see: <http://fra.europa.eu/en/project/2009/fundamental-rights-persons-intellectual-disabilities-and-persons-mental-health-problems>.

6 FRA (2010).

7 FRA (2011a).

8 FRA (2012c).

9 FRA (2012d).

10 FRA (2013b).

11 For more information, see Chapter 7 of FRA (2013a).

12 Eurofound (2013).

13 *Ibid.*

At the EU level, the right of EU citizens to vote in European and municipal elections is grounded in Article 20 (2) (b) of the Treaty on the Functioning of the European Union (TFEU), as well as in Articles 39 and 40 of the Charter of Fundamental Rights of the EU.¹⁴ If read in conjunction with Article 29 of the CRPD (see box 'CRPD Article 29 – participation in political and public life'), these provisions provide a solid legal backbone informing public authorities at EU as well as at national level how the right to political participation of persons with disabilities should be guaranteed in municipal and European Parliament elections. Article 21 of the Charter underscores the obligation to ensure non-discrimination in all areas of EU action, including in elections.

According to Article 22 (1) of the TFEU, the right of EU citizens to vote and stand as a candidate in municipal elections under the same conditions as nationals of the state concerned should be exercised subject to detailed arrangements laid down in EU legislation. The same applies to the right in Article 22 (2) of the TFEU of every citizen of the Union to vote and stand as a candidate in elections to the European Parliament.

These rights are further detailed in secondary legislation, specifically Council Directive 93/109/EC¹⁵ which outlines arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, and Council Directive 94/80/EC¹⁶ which sets out similar provisions for voting and standing as a candidate in municipal elections. The directive also provides that "Nothing in this Directive shall affect each Member State's provisions concerning the right to vote or to stand as a candidate of its nationals who reside outside its electoral territory". Consequent to the ratification of the CRPD by the EU, the Union is bound by the convention within the limits of its competences and Council Directives 93/109/EC and 94/80/EC must be interpreted in a manner consistent with the CRPD.¹⁷ Although the European Commission regularly reports on the implementation of these two directives, previous reports have not mentioned the CRPD or the electoral rights of persons with disabilities.

To the degree that EU legislation does not harmonise the respective procedures, EU Member States remain free to design and apply their own procedural electoral

laws. Nevertheless, when doing so they must respect general principles of EU law and rights enshrined in the Charter. The CJEU confirmed that Member States "enjoy a wide margin of appreciation in imposing conditions on the right to vote. However, those conditions may not curtail the right to vote to such an extent as to impair its very essence and deprive it of effectiveness. They must pursue a legitimate aim and the means employed must not be disproportionate".¹⁸ In other words, those EU Member States which are parties to the CRPD remain under the obligation to organise elections in compliance with its provisions.

This legal framework is complemented by EU policy documents. The European Disability Strategy (2010–2020) sets the objective of achieving the "full participation of people with disabilities by: enabling them to enjoy all the benefits of EU citizenship; and removing administrative and attitudinal barriers to full and equal participation".¹⁹ More specifically, the strategy outlines that the Commission will work to "address accessibility to voting" including by "supporting Member States' efforts to ensure that women and men with disabilities can fully exercise their electoral rights by developing and disseminating standards on accessible election facilities". During the European Year of Citizens in 2013, the European Commission underlined that the exercise of political rights and participation in democratic life is a cornerstone of EU citizenship.²⁰

The EU signed the CRPD on 30 March 2007. The Council of the EU adopted the Decision for conclusion on 26 November 2009 and on 23 December 2010 the EU completed the procedure of conclusion of the Convention by depositing its instruments of formal confirmation with the UN Secretary General. The Convention entered into force with respect to the EU on the 22 January 2011.

Following their ratification of the CRPD, electoral legislation in the EU and the 25 Member States which are parties to the convention, must comply with its provisions. Article 29 of the CRPD explicitly requires state parties to "ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity [...] to be elected" and sets out a number of measures to enable this.

As underlined by the 2011 thematic report of the UN Office of the High Commissioner for Human Rights

14 For a more detailed analysis of the legal framework in this area, see FRA (2010); and ANED, Waddington, L. (2014).

15 Council Directive 93/109/EC, OJ L 329, pp. 34–38.

16 Council Directive 94/80/EC, OJ L 368, pp. 38–47.

17 See the approach taken in the context of the report on the application of the equality directives: European Commission (2014), p. 14.

18 Court of Justice of the European Union, Case C-145/04, Arts. 17 EC, 19 EC, 189 EC and 190 EC.

19 European Commission (2010a).

20 See: <http://europa.eu/citizens-2013/en>.

CRPD

Article 29 – Participation in political and public life

“State parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

(a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and 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;

(iii) Guaranteeing 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;

(b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

(i) Participation in non-governmental organisations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

(ii) Forming and joining organisations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.”

(OHCHR), Article 29 of the CRPD imposes on state parties both negative obligations, such as the obligation not to place legal limits on the right to vote, and positive obligations, including the duty to ensure reasonable accommodation “to overcome the obstacles that *de*

facto prevent persons with disabilities from exercising their right to be elected on an equal basis with others”.²¹

Through its concluding observations on state party reports, the CRPD Committee provides useful insights into its interpretation of Article 29 (see indicator 2.1.1). In addition, individual communications available under the optional protocol to the CRPD, such as that in the case of *Zsolt Bujdosó and five others v. Hungary*,²² offer further guidance as to the scope and application of the article (see indicator 3.2.4).

Selected legal instruments on the political participation of persons with disabilities in the EU

UN documents

[United Nations Convention on the Rights of Persons with Disabilities](#)

[Optional Protocol to the Convention on the Rights of Persons with Disabilities](#)

[General Comment Article 9 of the Convention – Accessibility](#)

[General Comment Article 12 of the Convention – Equal Recognition before the Law](#)

[Concluding Observations of the CRPD Committee](#)

[Communication No. 4/2011](#)

Council of Europe documents

[European Convention on Human Rights Recommendation Rec\(2006\)5 of the Committee of Ministers to Member States on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006–2015](#)

[Recommendation CM/Rec\(2011\)14 of the Committee of Ministers on the participation of persons with disabilities in political and public life](#)

[Resolution 1642 \(2009\) of the Parliamentary Assembly of the Council of Europe on Access to rights for people with disabilities and their full and active participation in society](#)

[Code of Good Practice in Electoral Matters, Guidelines and Explanatory Report](#)

²¹ United Nations (UN), Office of the High Commissioner for Human Rights (OHCHR) (2011), para. 46.

²² UN, Committee on the Rights of Persons with Disabilities (2011a).

EU documents

[Charter of Fundamental Rights of the European Union](#)

[Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals](#)

[Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals](#)

Numerous other CRPD articles underpin the realisation of the right to political participation. The interplay between these rights is reflected in many of the indicators in this report. In particular, the CRPD committee has established Article 12 on equal recognition before the law as central to the convention as a whole. By specifically linking Articles 12 and 29, the Committee has expressed concern that in many states, including some EU Member States, the deprivation of legal capacity triggers a limitation on the right to vote (see indicator 2.1.2).²³

Accessibility is also especially important. Article 29 of the CRPD requires state parties to ensure that “voting procedures, facilities and materials are appropriate, accessible and easy to understand and use”. This is reinforced by Article 9 which requires “Buildings, roads, transportation and other indoor and outdoor facilities” used by the public to be made accessible with “minimum standards and guidelines for the accessibility of facilities and services open or provided to the public”, “public signage in Braille and in easy to read and understand forms” and “forms of live assistance and intermediaries”. Article 9 further requires state parties to promote “access for persons with disabilities to new information and communications technologies and systems, including the Internet”. The European Disability Strategy 2010–2020 also addresses accessibility in detail.¹²³⁴⁵⁶⁷⁸⁹

As with all CRPD articles, Article 29 must be understood against the back-drop of the general obligations on state parties outlined in Article 4. Article 4 (1) (b)

²³ See FRA (2013b), p. 16; see also UN, Committee on the Rights of Persons with Disabilities (2013a).

requires that all appropriate measures, including legislation, be taken “to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities”. This means that existing laws and policies which act as barriers to persons with disabilities’ political participation on an equal basis with others must be amended. The second key element of these general obligations is the involvement of persons with disabilities in the decision-making process. Article 4 (3) of the CRPD obliges state parties to:

“[...] consult with and actively involve persons with disabilities through their representative organisations in the development and implementation of legislation and policies to implement the Convention, as in other decision-making processes concerning issues relating to persons with disabilities.”

This provision addresses the possible exclusion of persons with disabilities from the policy process, from setting the policy agenda, through to delivering services and monitoring implementation.

Selected other documents on the political participation of persons with disabilities in the EU

UN documents:

[The United Nations Standard Rules for the Equalization of Opportunities of Persons with Disabilities](#)

[World Health Organization \(WHO\) Mental Health Declaration for Europe](#)

EU documents:

[European Disability Strategy 2010–2020: A Renewed Commitment to a Barrier-Free Europe](#)

[European Pact for Mental Health and Well-being
A Digital Agenda for Europe](#)

[The European eGovernment Action Plan 2011–2015: Harnessing ICT to promote smart, sustainable and innovative government](#)

The right to vote is further guaranteed by Council of Europe instruments. Article 3 of Protocol 1 to the European Convention on Human Rights (ECHR) obliges signatory states “to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”. While this provision does not explicitly address persons with disabilities, its meaning in this context has been elaborated through the case law of the European Court of Human Rights (ECtHR). In particular, the case of *Alajos Kiss v. Hungary* considered the link between the deprivation of legal capacity and the right to vote, ruling that the automatic

exclusion of people under guardianship from the right to vote was contrary to the ECHR (see indicator 3.2.4).²⁴

The Council of Europe has also developed a number of soft law and policy documents concerning the right to political participation. The starting point for many of these documents is the Disability Action Plan 2006–2015.²⁵ Action line 1 of the Action Plan states that “efforts must be made to create the environment where people with disabilities are encouraged and are able to participate in politics at local, regional, national and international levels”²⁶ setting out specific actions that Council of Europe member states should implement.

Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006–2015

3.1.3. Specific actions by member states

- i. To ensure that voting procedures and facilities are appropriate and accessible to people with disabilities so that they are able to exercise their democratic rights, and allow, where necessary, the provision of assistance in voting;
- ii. to protect the right of people with disabilities to vote by secret ballot and, where necessary, upon their request, allow assistance in voting by a person of their choice;
- iii. to ensure that no person with a disability is excluded from the right to vote or to stand for election on the basis of her/his disability;
- iv. to ensure that election information is available and accessible in all necessary alternative formats, and easy to understand;
- v. to encourage political parties and other civil society organisations to provide their information and organise their public meetings in an accessible way;
- vi. to encourage people with disabilities, in particular women and young people, to form and join representative disability organisations at local,

regional and national level for the purpose of contributing to and influencing policy at all levels;

vii. to encourage consultation with people with disabilities and their organisations on an equal basis to others, in the democratic decision-making process; [...]

Recommendation CM/Rec(2011) 14 of the Committee of Ministers on the participation of persons with disabilities in political and public life calls on Member States to implement the Disability Action Plan provisions related to political participation, and to conduct “positive actions likely to encourage women and men with disabilities [...] to participate in political life as citizens holding equal political rights and obligations”.²⁷ In its 2009 Resolution on Access to rights for people with disabilities and their full and active participation in society, the Parliamentary Assembly of the Council of Europe also calls on member states to implement the Council of Europe Disability Action Plan.²⁸

Another body of the Council of Europe, the European Commission for Democracy through Law (Venice Commission), adopted a Code of Good Practice in Electoral Matters, Guidelines and Explanatory Report in 2002.²⁹ To reflect the entry into force of the CRPD, the Code was updated in 2010 through the adoption of an interpretative declaration. As well as making direct reference to Article 29 of the CRPD, the declaration clarified the Venice Commission’s position regarding restrictions on the right to vote associated with the deprivation of legal capacity. Persons with a “proven mental disability” can be deprived of the right to vote, on condition that this is “imposed by an individual decision of a court”, rather than being the automatic effect of the loss of legal capacity.³⁰

Methodology and data collection

The analysis draws from data populating a total of 28 human rights indicators developed by the FRA in close cooperation with the European Commission and ANED, which the Commission funds. During the preparation phase, the draft indicators were further refined through consultation with selected stakeholders. The analysis in this report applies these indicators to the 28 EU Member States, populating them with available information and data. The indicators are based

²⁴ For further information, see FRA (2010).

²⁵ Council of Europe, Committee of Ministers (2006).

²⁶ *Ibid.*

²⁷ Council of Europe, Committee of Ministers (2011).

²⁸ Council of Europe, Parliamentary Assembly (2009), para. 7.

²⁹ Council of Europe, Venice Commission (2002).

³⁰ Council of Europe, Venice Commission (2010).

on the human rights indicator model developed by the OHCHR,³¹ to provide “specific information on the state of an event, activity or outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights”.³²

One of the principal features of the framework is the configuration of three clusters of indicators, corresponding to the duty bearer’s (i.e. the state’s) *commitments, efforts* and *results*; respectively labelled as structure (or structural), process and outcome indicators. Together, these clusters of indicators measure the acceptance, intent or commitment of a state to meet the human rights obligations derived from an international treaty to which it is a signatory. The framework encourages the use of contextually relevant and quantifiable information for populating indicators.

As noted by the OHCHR, “process and outcome indicators are not always mutually exclusive” meaning that “a process indicator for one human right can be an outcome indicator in the context of another”.³³ This report follows the guiding consideration identified by the OHCHR: for each attribute of a right at least one outcome indicator that can be closely related to the enjoyment of that right is identified. Process indicators reflect the effort of the duty bearers in meeting or making progress in attaining the outcome.

How were the data collected?

Data to populate the indicators were collected through desk research carried out by the FRA’s multidisciplinary research network, Franet, and by the European Commission-funded ANED experts’ network.³⁴ Franet is composed of contractors in each EU Member State who, upon request, provide relevant data to the FRA on fundamental rights issues to facilitate the agency’s comparative analyses.³⁵

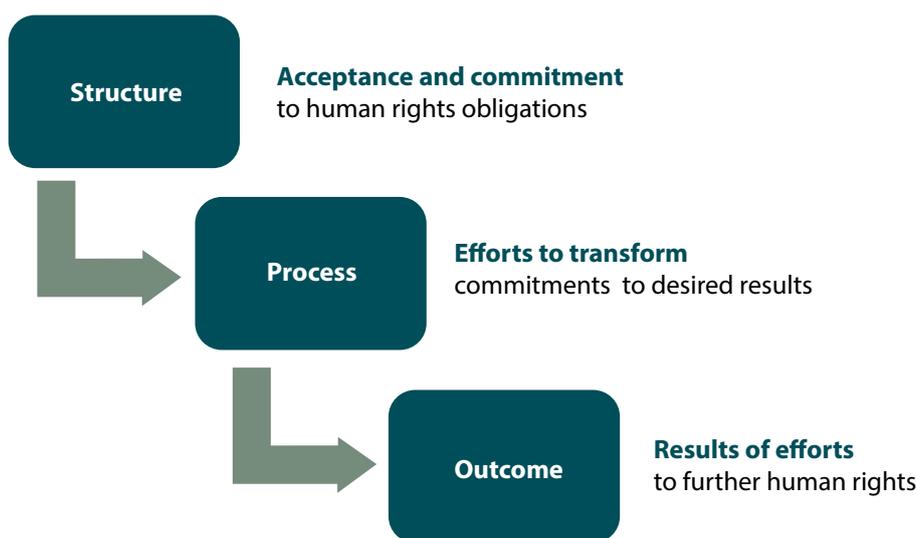
For the data, FRA and ANED gathered publically available information in each EU Member State, drew on available EU statistics, and made a small number of data requests to public authorities. It was outside the scope of this research to collect primary data or to test the reliability of the qualitative data gathered.

No reliable or accurate data were identified in EU Member States to populate many of the indicators. In other cases, the use of different methodologies and criteria for data collection made comparative analysis challenging. In these cases, the indicators are populated with information on data availability. More detail on challenges with data collection and reliability

is given in the analysis of each indicator, where relevant.

The statistical data used in the report were extracted by FRA and ANED from existing EU-wide surveys including the European Quality of Life Survey (EQLS) and European Social Survey (ESS). The analysis is shaped by the questions asked in these surveys, unlike the indicators presented in Chapters 2, 3 and 4 which were developed by the FRA in conjunction with the European Commission specifically for this project. Some of these data’s limitations are discussed at the end of Chapter 1.

Figure 1: Structure-process-outcome indicator framework



Source: FRA, 2014

The structure, process and outcome indicators developed for this project cover the right to political participation of persons with disabilities, with a focus on the right to vote and participate in elections of the European Parliament and municipal elections. Structure indicators entail the legal situation with regard to the right to political participation of persons with disabilities. Process indicators show specific policy measures to promote and protect the right to vote. Outcome indicators identify the political participation experiences of persons with disabilities.

³¹ UN, OHCHR (2006), p. 3.

³² Detailed information about this framework can be found in UN, OHCHR (2012); see also, FRA (2011b).

³³ UN, OHCHR (2012), p. 38.

³⁴ For further information on ANED, see: www.disability-europe.net

³⁵ See: <http://fra.europa.eu/en/research/franet>

How to read this report

This report starts by presenting an overall picture of the involvement of persons with disabilities in political life, using existing survey data. It then presents the main findings of structure indicators (Chapter 2), process indicators (Chapter 3) and outcome indicators (Chapter 4). The report also presents examples of promising practices that EU Member States could usefully consider.

The analysis is shaped by four key themes that emerged during the research, and which reflect the two dimensions of Article 29 of the CRPD: the effective and full participation in political and public life, including the right to vote and to be elected; and the creation of an encouraging environment for wider participation in public affairs without discrimination. The four themes are:

- Lifting legal and administrative barriers to political participation;
- Making voting procedures, facilities and election materials more accessible;
- Expanding opportunities for participation in political and public life;
- Increasing awareness of the right to political participation of persons with disabilities.

Each of the indicators may be considered independently, but should be read in the context of the wider set of indicators which together give an overview of the situation concerning the political participation of persons with disabilities. The indicators are linked horizontally to others on a similar theme, as well as vertically, so that structure indicators are linked to process and outcome indicators. Table 1 summarises these links.

Table 1: Overview of links between indicators

Theme	Structure	Process	Outcome
Lifting legal and administrative barriers to political participation	2.1.1. Article 29 of the CRPD on participation in political and public life	3.2.1. Accessibility of information about how and where to complain	4.1.1. Members of national parliament with a disability 4.1.2. Members of municipal authorities with a disability
	2.1.2. Article 12 of the CRPD on equality before the law	3.2.2. Cases considered by judicial complaints mechanisms	
	2.1.4. National strategies	3.2.3. Cases considered by non-judicial complaints mechanisms	
	2.2.1. Restrictions on the right to vote of people without legal capacity	3.2.4. Cases considered by international complaints mechanisms	
	2.2.2. Legal requirement to register to vote		
	2.2.3. Alternative ways of voting		
	2.2.4. Voting from long-term institutions		
	2.3.5. Duty to provide assistance		
	2.4.1. Legally able to access complaints mechanisms		
	Increasing awareness of the right to political participation of persons with disabilities	2.1.1. Article 29 of the CRPD on participation in political and public life	3.1.1. DPO involvement 3.1.2. Commitment to provide accessible manifestos
2.1.3. Article 9 of the CRPD on accessibility		3.1.3. Guidelines on the accessibility of polling stations	
2.1.4. National strategies			
2.3.6. Training for election officials			
Making voting procedures, facilities and election materials more accessible	2.1.3. Article 9 of the CRPD on accessibility	3.1.1. DPO involvement 3.1.2. Commitment to provide accessible manifestos 3.1.3. Guidelines on the accessibility of polling stations	4.2.1. Accessibility of polling stations 4.2.2. Accessibility of public buildings 4.2.3. Accessibility of information websites 4.2.4. Accessibility of information television broadcasts 4.2.5. Accessibility of election manifestos
	2.2.4. Voting from long-term institutions	3.2.1. Accessibility of information about how and where to complain	
	2.3.1. Accessibility standards for the internet		
	2.3.2. Accessibility standards for audio-visual media		
	2.3.3. Accessibility standards for public buildings		
	2.3.4. Accessibility standards for polling stations		
2.3.5. Duty to provide assistance			

Theme	Structure	Process	Outcome
Expanding opportunities for participation in political life	2.1.1. Article 29 of the CRPD on participation in political and public life	3.1.1. DPO involvement	4.1.1. Members of national parliament with a disability
	2.1.3. Article 9 of the CRPD on accessibility		4.1.2. Members of municipal authorities with a disability
	2.2.3. Alternative ways of voting		
	2.3.1. Accessibility standards for the internet		
	2.3.2. Accessibility standards for audio-visual media		
	2.3.3. Accessibility standards for public buildings		

Source: FRA, 2014

1

Involvement of persons with disabilities in political life

To get an overview of the levels of involvement and interest of persons with disabilities in political life, the FRA and ANED analysed data from two major cross-national social surveys, the European Quality of Life Survey (EQLS) and the European Social Survey (ESS). The analysis is driven by the questions that were asked in the surveys.³⁶

The data clearly illustrate that people with disabilities are as interested in the political functioning of their country as other citizens. This indicates that, when barriers and obstacles to their participation are removed, they are likely to be engaged citizens keen to participate in the political life of their communities.

Due to the methodology of the data collection, however, the statistical data may paint an overly positive picture of the political participation outcomes of persons with disabilities. In particular, the data are unlikely to reflect the situation of persons with more severe impairments who often encounter the most significant barriers to political participation.

How interested in politics are people with disabilities?

Data on levels of interest in politics give an indication of the extent to which the population feels itself engaged with the political process and may suggest how closely potential voters follow ongoing policy debates. The self-reporting nature of a survey question about interest in politics can be particularly important for persons with disabilities, who may face more barriers to demonstrating this interest by taking part in different forms of political activity.

The ESS asked respondents how interested they are in politics, with the following possible responses: very interested; quite interested; hardly interested; not at all interested: To aid the analysis, respondents who answered either 'very' or 'quite' interested have been grouped together as 'interested'. The chart below shows the percentage of respondents who said they were interested in politics in the 18 EU Member States covered by the survey.

In most of the EU Member States covered by the survey, respondents with disabilities were more likely to say that they were interested in politics than the general population. The gap was largest in the **Czech Republic, Ireland and Slovakia**.

³⁶ For more detailed analysis of the data, see: ANED, Grammenos, S. (2014).

Using survey data to measure the involvement of persons with disabilities in political life

The EQLS and the ESS are general population surveys rather than disability-specific surveys. However, both include 'disability identifier' questions that enable the results to be broken down by, for example, gender, age and severity and type of impairment. By analysing the responses to questions on political participation in conjunction with the 'disability identifier' questions, it is possible to estimate the involvement of people with disabilities in the political life of their communities, and compare it with that of the general population.

European Quality of Life Surveys (EQLS)

The EQLS is carried out every four years and administered by Eurofound, most recently in 2011 with more than 43,000 people in 34 European countries including the then 27 EU Member States and Croatia. The questionnaire asked respondents: "Do you have any chronic (long standing) physical or mental health problem, illness or disability?" Those who answered yes were then asked: "Are you hampered in your daily activities by this physical or mental health problem, illness or disability?" (with the option to respond "Yes, severely", "Yes, to some extent" or "No"). By combining the responses of all those who reported a long-standing condition that also hampered their daily activity in some way it is possible to estimate the responses of 'respondents with disabilities' relative to those of the general population.

The survey also asked a number of questions about participation in political life. These include whether or not the respondent voted in recent elections, whether they had done any voluntary work or attended any meetings in a range of contexts (including social movements, trade unions and political parties), whether they had taken part in a protest or signed a petition, and so on. Thus, it is possible to estimate the political participation outcomes of people with disabilities, and compare them with those of the general population.

European Social Survey (ESS)

The European Social Survey (ESS) is a similarly large academic survey conducted every two years, funded by the European Commission and administered by City University London. The sixth wave was conducted in 2012 in 24 countries, including 18 EU Member States. A total of 46,076 people took part in the survey.

The questionnaire asked respondents, "Are you hampered in your daily activities in any way by any long-standing illness, or disability, infirmity or mental health problem? IF YES, is that a lot or to some extent?" In a similar way to the EQLS survey, it is possible to separate nearly 11,000 people who answered 'Yes' (more than 400 people in every country) and to compare their responses with the general population.

The survey measures attitudes, beliefs and behaviour patterns and includes a number of questions that have some relevance to political participation outcomes. For example, it asked about: time spent on news and current affairs from TV, radio and newspapers; interest in politics; levels of trust in government, parliaments and politicians; voting in recent elections; involvement in campaign activity.

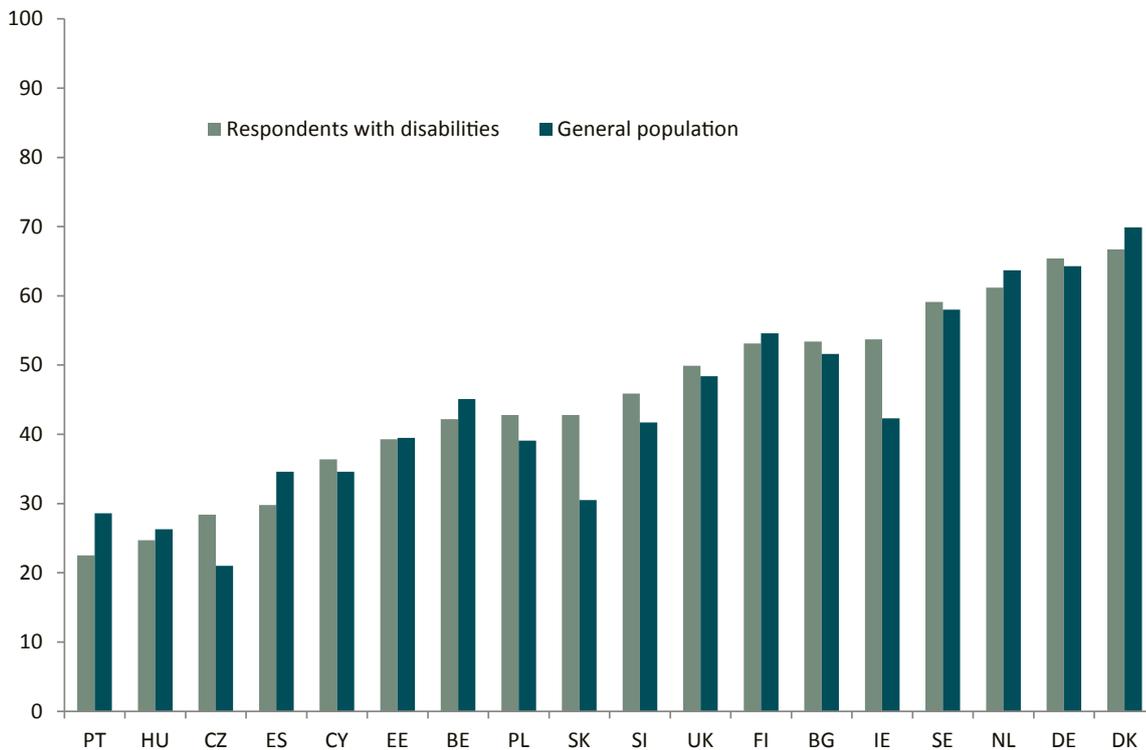
Interpreting the results

Whilst these are large and reliable sources of evidence, some care must always be taken when interpreting headline statistics. There is variation between countries in the proportion of people who identify as having an activity-limiting health condition or disability, ranging from 12 % in Greece to 44 % in Lithuania. Such variations are also observed in other European survey data (such as the EU Statistics on Income and Living Conditions, EU-SILC), reflecting differing concepts and understandings of disability and impairment across the EU. When looking at the data the focus should be on differences within Member States – for example between those who identify as having a disability and the general population – rather than between Member States, for example those who identify as having a disability in the Netherlands and in Romania.

As illustrated below, age is a very important factor in many aspects of political participation. General population surveys consistently show that older people – typically classified as those over the age of 65 – are considerably more likely to vote than their younger peers, as well as to take part in other forms of political activity, such as being members of political parties. As older people are also much more likely to report having a disability – many impairments are linked to ageing – age is a particularly important aspect of understanding the political participation of persons with disabilities.



Figure 2: Respondents who are interested in politics, by EU Member State covered by the European Social Survey (%)



Question: B1: How interested would you say you are in politics – are you...? Answer: 'very interested'; 'quite interested'; 'hardly interested'; 'not at all interested'.

Sources: European Social Survey 2012; ANED Grammenos, 2014

How many people with disabilities vote in elections compared to the general population?

For many people, voting in elections is their main and most direct form of political activity. Looking at the voter turnout rate of different parts of the population can therefore be an important indicator of the inclusion or exclusion of particular groups from a central aspect of the political process.

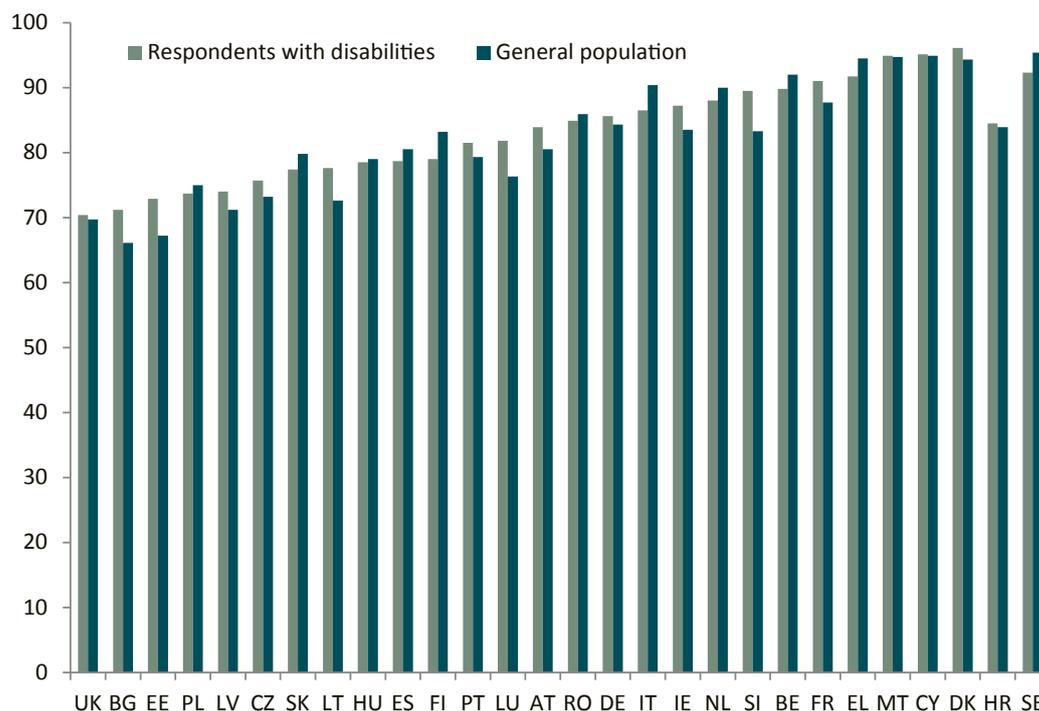
The FRA and ANED research indicates that in no Member State is data on the voting rate of persons with disabilities collected on polling day. A comparison of the voter turnout of persons with disabilities and the general population is therefore dependent on surveys that ask about people's voting behaviour retrospectively.

The data presented here cover the most recent national election in the respondents' countries of residence: neither the EQLS nor the ESS asked respondents whether they voted in the last European or municipal elections.

To aid the analysis, respondents who answered 'yes' or 'yes but I spoiled my ballot/I left my ballot blank' (around 1 % of responses) are grouped together and considered as having voted in the last national election. Respondents who refused to answer, who did not know whether they had voted in the last election or who said they had not been eligible to vote are excluded from Figures 3 and 4.

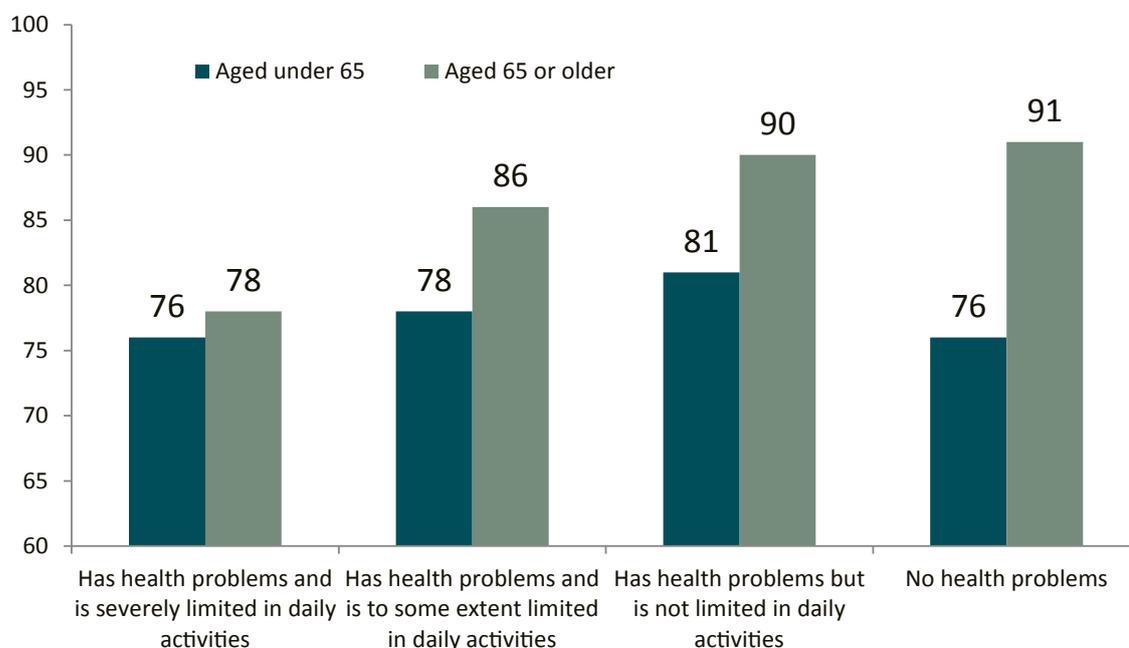
In a majority of EU Member States, respondents with disabilities were more likely to report that they had voted in the last national election than the general population. In general, this can be explained by the higher proportion of older people who report having a disability, as older people are also more likely to vote.

Figure 3: Respondents who voted in the last national election, by EU Member State (%)



Question: B21. Some people don't vote nowadays for one reason or another. Did you vote in the last national election held in [month/year]? Answer: 'yes', 'yes but I spoiled my ballot/I left my ballot blank', 'no', 'not eligible to vote', (refusal), (don't know). Sources: European Quality of Life Survey 2007; ANED Grammenos, 2014

Figure 4: Respondents who voted in the last national election, by age and impairment status (%)



Question: B21. Some people don't vote nowadays for one reason or another. Did you vote in the last (country) national election held in (month/year)? Answer: 'Yes', 'Yes, but I spoiled my ballot/left my ballot blank', 'No', 'Not eligible to vote', (Refusal), (Don't know)'. Q45. Are you hampered in your daily activities by this physical or mental health problem, illness or disability? Answer: 'Yes, severely', 'Yes, to some extent', 'No', (Refusal), (Don't know)'. Sources: European Quality of Life Survey 2007; FRA, 2014

Promising practice

Raising awareness on the right to vote of persons with intellectual disabilities

The multi-national project – My opinion my vote – raised awareness on the right to vote of persons with intellectual disabilities ahead of the European Parliament elections in 2009. The project aimed at encouraging persons to take part actively in local, national and EU elections and referenda, and was funded under the EU’s Lifelong Learning Programme.

Research undertaken by universities and disability organisations in six EU Member States (**Denmark, Hungary, Italy, Ireland, Denmark, Malta and Spain**) identified a lack of structured programmes and materials for educating persons with intellectual disabilities on the right to vote, politics and democracy. In response, a practical educational programme was developed, based on the experiences of persons with intellectual disabilities. Additionally, the election manifestos of European political parties and groups were translated into an easy-to-read format.

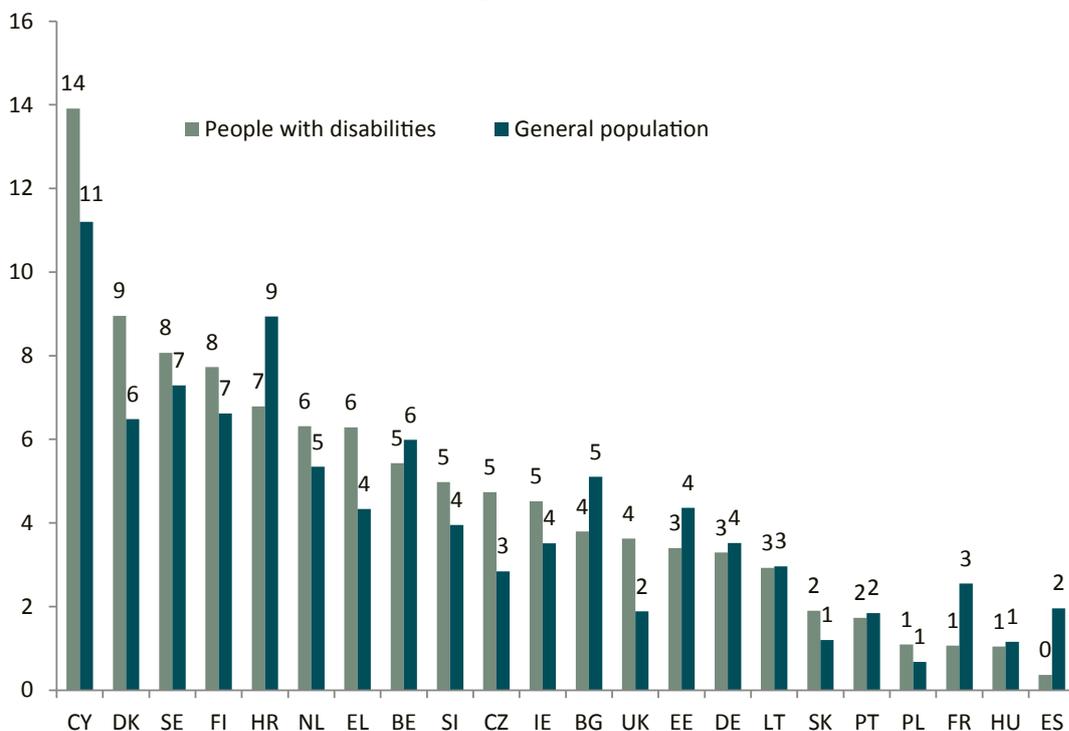
For more information, see: www.myopinionmyvote.eu

Breaking down the data by age and severity of impairment, however, presents a rather different picture. Respondents aged 65 and above over with a disability were significantly less likely to have voted in the last national election than those who said they had no health problems. This was particularly the case for those severely limited in their daily activities: 78 % of these respondents voted in the most recent national election, compared to 91 % of those without health problems. Breaking the results down by age therefore reveals an underlying inequality for people with disabilities, and especially those with more severe disabilities.

How many people with disabilities are members of a political party compared to the general population?

Most elected representatives are members of political parties whose agendas shape the development of law and policy at all levels of government. Membership of political parties is therefore an important mechanism through which citizens can influence

Figure 5: Respondents who are members of any political party, by EU Member State covered by the European Social Survey (%)



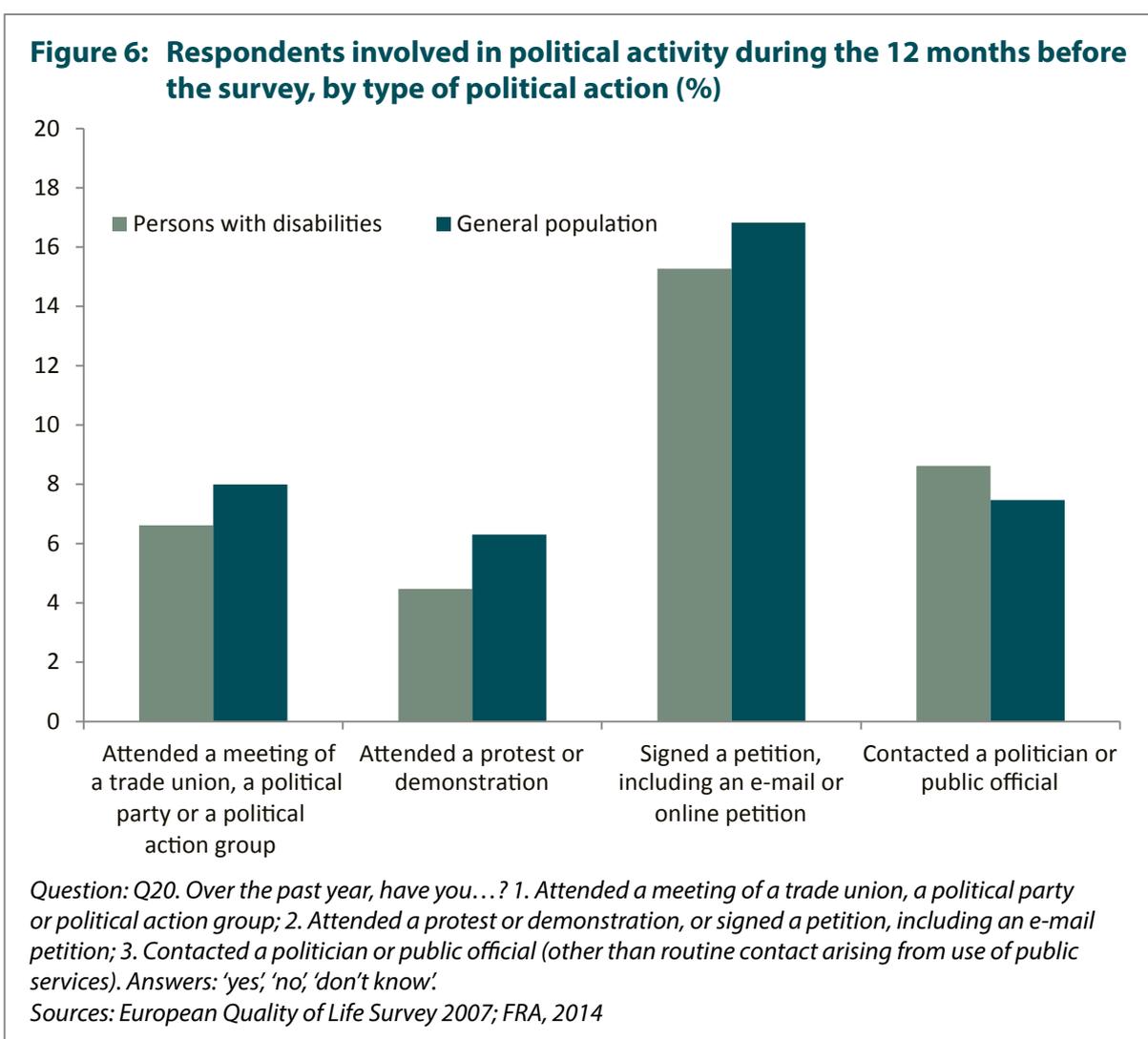
Question: B21. Are you a member of any political party? Answer: 'yes', 'no', 'don't know'.
Sources: European Social Survey 5 2010; FRA, 2014

decision-making and policy formation. Figure 5 shows respondents' answers about whether they were a member of any political party at the time of the survey.

Membership of political parties varies considerably across the EU, reflecting different political traditions and social contexts. Older people are more likely to engage in formal modes of political participation than younger people and this may explain why respondents with disabilities are more likely to be members of political parties than the general population in many of the Member States.

How many people with disabilities are politically active compared to the general population?

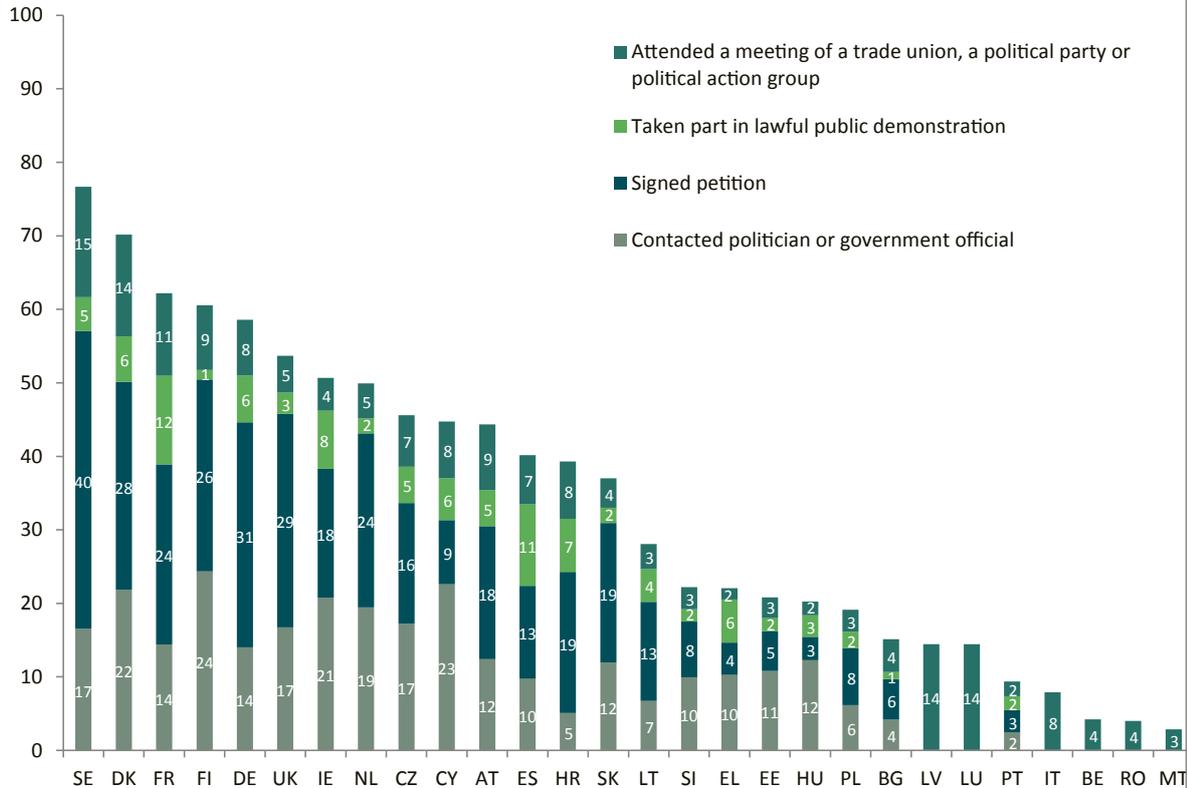
Being politically active extends far beyond voting in elections or being a member of a political party. Figure 6 shows whether respondents said that, in the year preceding the survey, they had attended a meeting of a trade union, a political party or a political action group; attended a protest or demonstration; signed a petition; or contacted a politician or public official.



Compared to the general population, respondents with disabilities were more likely than the general population to have made direct contact with a politician or public official during the previous 12 months. This may, in part, reflect

persons with disabilities' higher level of reliance on public services or the inaccessibility of public meetings, both in terms of the buildings in which they take place and the transport that may be required to reach them.

Figure 7: Respondents with disabilities involved in political activity in the 12 months before the survey, by type of activity and EU Member State (%)



Question: Q20. Over the past year, have you...? 1. Attended a meeting of a trade union, a political party or political action group; 2. Attended a protest or demonstration, or signed a petition, including an e-mail petition; 3. Contacted a politician or public official (other than routine contact arising from use of public services).
 Answers: 'yes', 'no', 'don't know'.
 Sources: European Quality of Life Survey 2007; FRA, 2014

Overall, reported engagement with these kinds of political activities among respondents with disabilities was highest in **Denmark, Finland, France and Sweden**. Variations in the types of political activities undertaken are more closely related to the national cultures of political participation than to differences in the barriers people with disabilities may face when trying to take part in various types of political activity. Data on certain types of activity were not available for all countries.

Do people with disabilities trust political institutions?

Trust in political institutions contributes to the legitimacy and sustainability of the democratic process. There are many reasons why citizens may feel higher or lower levels of trust in political institutions, including the extent to which these institutions are seen to represent their interests, the perceived efficiency or effectiveness of the institutions, and past experience

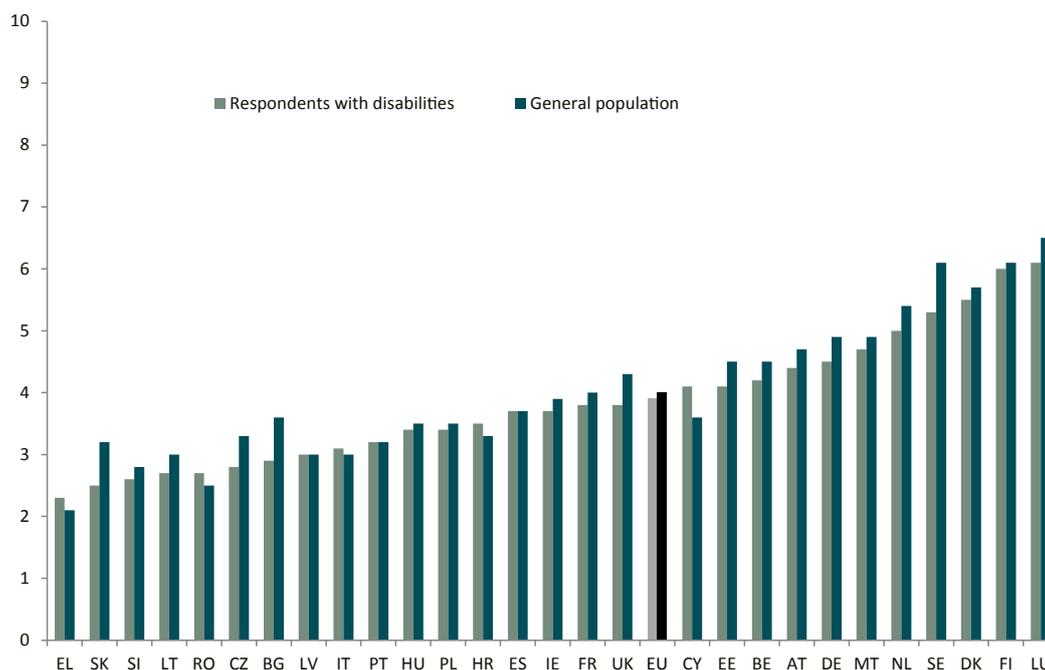
of institutions keeping to policy commitments and delivering services effectively.³⁷ Responses may also be linked to attitudes towards prominent members or figures in each institution.

Data are presented on respondents' trust in three key institutions: government, parliament and political parties, disaggregating the responses according to whether respondents self-identified as having a disability. Respondents were asked to rate their personal level of trust in each these institutions separately, on a scale of 1 ('don't trust at all') to 10 ('trust completely'). Figures 8–10 present the average (mean) scores of respondents' self-assessed trust.

The low overall levels of trust may reflect the consequences of the financial crisis and broader dissatisfaction with government responses at all levels. The particularly low score in Greece, for example, may be linked to the acute economic difficulties the country has recently faced.

³⁷ For further information, see: Eurofound (2010).

Figure 8: Respondents levels of personal trust in government, by EU Member State (%)

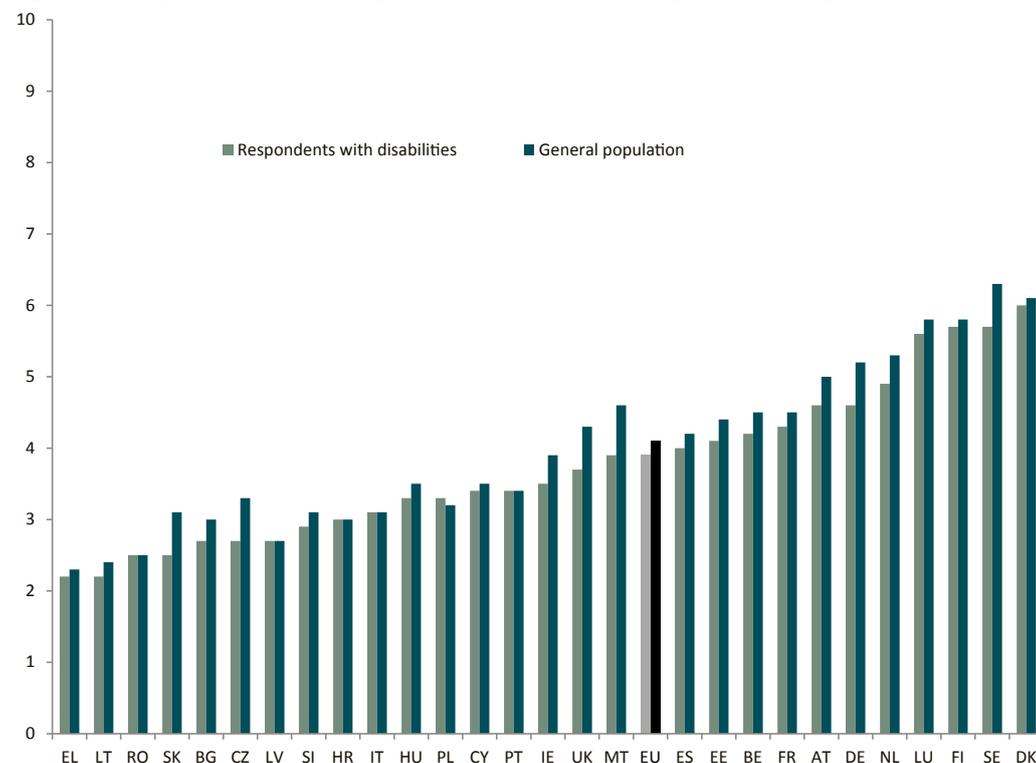


Question: Q28e. Please tell me how much you personally trust in government. Answer: from 1 'don't trust at all' to 10 'trust completely'.
Sources: European Quality of Life Survey 2011–2012; ANED Grammenos, 2014

In general, respondents with disabilities report a similar level of personal trust in government to the general population in EU Member States. In five Member States, **Bulgaria**, the

Czech Republic, **Slovakia**, **Sweden** and the **United Kingdom**, respondents with disabilities report a noticeably lower level of trust in government than the general population.

Figure 9: Respondents levels of personal trust in national parliament, by EU Member State (%)

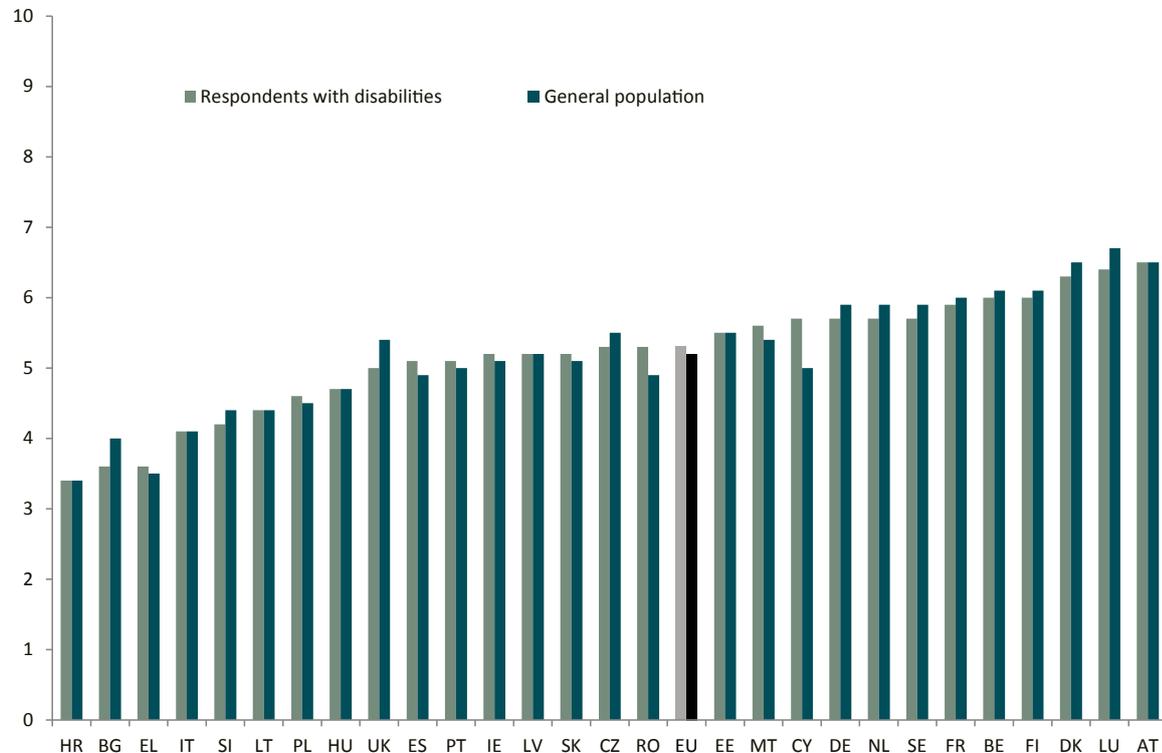


Question: Q28a. Please tell me how much you personally trust in [nationality] parliament. Answer: from 1 'don't trust at all' to 10 'trust completely'.
Sources: European Quality of Life Survey 2011–2012; ANED Grammenos, 2014

The data for levels of trust in national parliament broadly mirror that for governments, although there is a larger

difference between the levels of trust among respondents with disabilities and the general population.

Figure 10: Respondents levels of personal trust in local (municipal) authorities, by EU Member State (%)



Question: Q28f. Please tell me how much you personally trust in the local (municipal) authorities.
 Answer: from 1 'don't trust at all' to 10 'trust completely'.
 Sources: European Quality of Life Survey 2011–2012; ANED Grammenos, 2014

In contrast, levels of self-reported personal trust in local (municipal) government are markedly higher across the EU Member States. There is also less discrepancy between the answers of respondents with disabilities and the general population. This could reflect the more direct role of local government in the provision of services which are used on a daily basis.

How satisfied are people with disabilities with the way democracy works, when compared to the general population?

Satisfaction with democracy depends on perceptions of representation, and to a lesser degree on perceptions of accountability.³⁸ For people with disabilities,

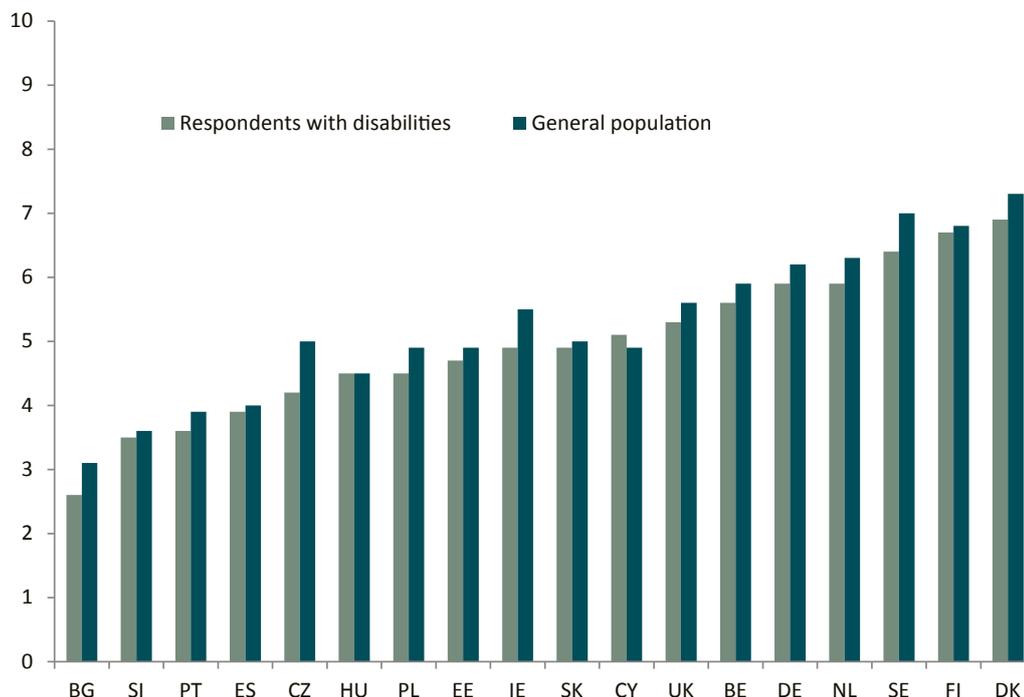
this may be an important issue as their direct representation is often lacking, as illustrated in indicators 3.1.1 and 3.1.2.

ESS participants were asked how satisfied they are with the way democracy works in their country, and asked to give an answer on a scale of 1 ('extremely dissatisfied') to 10 ('extremely satisfied'). The analysis below presents the average (mean) score for the 18 EU Member States included in the 2012 edition of the survey.

In every EU Member State surveyed, with the exception of **Cyprus**, respondents with disabilities reported a lower level of satisfaction with how democracy works than the general population. If the data are broken down further by the 'severity' of disability, the results show that persons with more severe disabilities are considerably less likely to indicate higher levels of satisfaction with the way democracy works than the general population.

³⁸ Aarts, K. and Thomassen, J. (2008), pp. 5–18.

Figure 11: Respondents level of satisfaction with the way democracy works, by EU Member State (%)



Question: B23. And on the whole, how satisfied are you with the way democracy works in [country]?

Answer: from 0 'extremely dissatisfied' to 10 'extremely satisfied'.

Sources: European Social Survey 6 2012; ANED Grammenos, 2014

The challenge of collecting reliable data on political participation of persons with disabilities

Statistical data, when reliable, comparable and accurate, can play an important role in populating indicators, in particular outcome indicators. By measuring a representative sample of the population, surveys can highlight problems and successes in the realisation of a right on the ground. Moreover, as surveys are often repeated at regular intervals, they can also capture changes in people's experiences of their fundamental rights over time.

The use of survey data to measure the political participation of persons with disabilities does, however, present a number of challenges, as the data presented in this chapter clearly demonstrate. Most of these challenges derive from methodological issues encountered in many surveys involving persons with disabilities. Decisions regarding both sample selection and data collection methodologies – for example, phone interviews, door-to-door interviews or online – can disproportionately exclude persons with certain types of disabilities from the survey sample. In the first instance, many surveys are conducted at the level of private households and therefore exclude persons living in institutions, particularly larger institutions.

In the second instance, persons with more severe impairments who face the greatest challenges in exercising their right to political participation may be most at risk of being excluded from surveys. Phone interviews may in practice exclude persons with hearing impairments. Similarly, the use of a standardised questionnaire may prevent the full participation of persons with intellectual disabilities. In addition, surveys usually require that the person being surveyed gives his or her consent. Persons who have been deprived of their legal capacity, while a small proportion of those with disabilities, are some of those most likely to be excluded from the right to political participation and form an important 'missing' group in these data.

A further challenge is presented by the 'disability identifier' questions which allow the data to be broken down by self-identified 'disability'. The questions used in both the EQLS and the ESS (see box: Using survey data to measure the involvement of persons with disabilities in political life) capture a large segment – approximately 25 % – of the population, including people who may only be 'hampered' in their daily lives to a very limited extent by an illness, disability or mental health problem. Including these people in the population of 'persons with disabilities' is likely to minimise the differences in the outcomes for persons with disabilities and the general population.

Conclusions

The analysis shows that, overall, persons with disabilities are as interested in the political life of their communities as the general population. They participate in elections as much as persons without disabilities, for example, and have similar levels of trust in political institutions.

The picture painted by the EQLS and ESS data are not likely, however, to reflect the daily experiences of exclusion from political participation that many persons with disabilities, particularly those with more severe impairments, may face. This is due to several factors, most strikingly age and how respondents with disabilities are identified by the surveys. Breaking down the data by age, for instance, reveals that voter turnout among persons over 65 with more severe impairments is significantly lower than that of elderly people who do not report health problems which limit their

daily activities. Furthermore, current data collection methodologies may exclude some of the persons with disabilities who face the greatest obstacles to political participation from the sample. People deprived of their legal capacity are omitted from surveys which require informed consent, while persons with hearing impairments face barriers to taking part in telephone-based surveys.

As such, the key message stemming from this chapter is the need for comparative, reliable and systematic data collection across the EU and Member States, which reflects the human rights model of disability set out in the CRPD and complies with legally established safeguards of confidentiality and respect for the privacy of persons with disabilities. Data collection is an obligation for the EU and those Member States which have ratified the CRPD under Article 31 of the Convention. This collection is crucial to accurately measuring the political participation of persons with disabilities and assessing the implementation and effects of laws and policies.

2

Structure indicators: law and policy

“Once a state has ratified a human rights treaty, there is a need to assess its commitment to implementing the standards it has accepted. Structural indicators help in such an assessment. They reflect the ratification and adoption of legal instruments and the existence as well as the creation of basic institutional mechanisms deemed necessary for the promotion and protection of human rights.”

United Nations (UN), OHCHR (2012), Human Rights Indicators: A guide to Measurement and Implementation (HR/PUB/12/5), p. 34

Structural indicators comprise the first element of OHCHR’s typology for assessing the promotion and implementation of fundamental rights. They help to capture the implementation of international or regional

human rights standards at the national level, by looking at how domestic legislation incorporates these standards, the institutional mechanisms available to promote and protect these standards and the related policy framework.

The indicators presented in this chapter reflect these different types of structural indicator. The first indicators look at whether the EU Member States have accepted the international standards relevant to the right to political participation of persons with disabilities enshrined in the CRPD. The EU itself ratified the CRPD on 23 December 2010. Subsequent indicators address specific aspects of national laws in EU Member States related to political participation, drawing on EU secondary legislation where it applies.

Table 2: Overview of thematic links between structure indicators

Theme	Structure indicators
Lifting legal and administrative barriers to political participation	2.1.1. Article 29 of the CRPD on participation in political and public life
	2.1.2. Article 12 of the CRPD on equality before the law
	2.1.4. National strategies
	2.2.1. Restrictions on right to vote of people without legal capacity
	2.2.2. Legal requirement to register to vote
	2.2.3. Alternative ways of voting
	2.2.4. Voting from long-term institutions
	2.3.5. Duty to provide assistance
	2.4.1. Legally able to access complaints mechanisms
	Increasing awareness of the right to political participation of persons with disabilities
2.1.3. Article 9 of the CRPD on accessibility	
2.1.4. National strategies	
2.3.6. Training for election officials	
Making voting procedures, facilities and election materials more accessible	2.1.3. Article 9 of the CRPD on accessibility
	2.2.4. Voting from long-term institutions
	2.3.1. Accessibility standards for the internet
	2.3.2. Accessibility standards for audio-visual media

Theme	Structure indicators
	2.3.3. Accessibility standards for public buildings
	2.3.4. Accessibility standards for polling stations
	2.3.5. Duty to provide assistance
Expanding opportunities for participation in political life	2.1.1. Article 29 of the CRPD on participation in political and public life
	2.1.3. Article 9 of the CRPD on accessibility
	2.2.3. Alternative ways of voting
	2.3.1. Accessibility standards for the internet
	2.3.2. Accessibility standards for audio-visual media
	2.3.3. Accessibility standards for public buildings

2.1 The legal status of the CRPD in EU Member States

The first group of indicators focus on the legal status of the CRPD in the EU Member States. Ratification of the convention means that state parties accept the general obligations set out in Article 4 of the CRPD, including the obligation to “modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities”.

Has the CRPD been ratified without a reservation or declaration to Article 29 on participation in political and public life?

Article 29 of the CRPD sets out the framework for persons with disabilities’ participation in political and public life and stipulates that state parties shall “guarantee to persons with disabilities political rights and the opportunity to enjoy them on equal basis with others.” To achieve this, state parties should: ensure that voting

Figure 12: Have EU Member States ratified the CRPD without a reservation to Article 29?



Sources: FRA, 2014; United Nations Treaty Collection

procedures, facilities and materials are appropriate and easy to use for persons with disabilities; and protect the rights of persons with disabilities to vote by secret ballot, stand for elections and hold office as an elected representative. Furthermore, under Article 29 state parties have the duty to promote an environment in which persons with disabilities can participate in the conduct of public affairs on an equal basis with others, including through the activities of non-governmental organisations, and forming and joining organisations of persons with disabilities.

This indicator looks at whether EU Member States have ratified the CRPD without a reservation or declaration to Article 29 on participation in political and public life. Ratification is the legal act that a state makes to show that it will abide by and implement the legal obligations set out in the treaty. Upon ratification, a State can enter a 'reservation' to one or more articles of the treaty. The implication of a reservation is to limit or qualify the obligation to implement that particular provision.

All European Union Member States except **Finland**, **Ireland** and the **Netherlands** have ratified the CRPD. These three have so far only signed the convention, which is an expression of the intention to ratify and prevents them from acting contrary to the treaty until they have ratified it.

Malta is the only EU Member State that has made a reservation to Article 29 of the CRPD upon ratification of the CRPD, although the declarations to Article 12, discussed in indicator 2.1.2 below, are also relevant to Article 29. In addition, no EU Member State has made a declaration to Article 29. Malta's reservation states that with regard to Article 29 (a) (i) it "reserves the right to continue to apply its current electoral legislation in so far as voting procedures, facilities and materials are concerned" and that with regard to Article 29 (a) (iii) it "reserves the right to continue to apply its current electoral legislation in so far as assistance in voting procedures is concerned".³⁹ This reservation is tied to the provisions for persons with disabilities who may require assistance to vote. The current system provides for such voters to vote in front of the assistant commissioners in their polling booth.

In its concluding observations to state parties regarding the implementation of Article 29, the CRPD Committee has emphasised two key issues: the need to ensure participation in political life for all persons, irrespective of the type of impairment or legal status, and the unacceptability of restrictions on the right to vote of persons with intellectual and psycho-social disabilities

³⁹ United Nations Treaty Collection.

(see indicator 2.2.1).⁴⁰ It also underlined the importance of accessibility and reasonable accommodation, stating that voting must be "fully accessible to all persons, irrespective of disability, and that voting information is provided in all accessible formats"⁴¹ and that elected officials with disabilities should be "provided with all required support, including personal assistants".⁴²

Promising practice

Addressing political participation of persons with disabilities in law

Spain passed the Regulation on the basic conditions for the participation of persons with disabilities in political life and electoral processes. The regulation covers a wide range of issues linked to the accessibility of elections, including:

- Accessibility of polling stations and public spaces where electoral campaign events take place.
- Accessibility of information regarding elections, including campaign material.
- Developing material for election authorities and voters with disabilities about the basic conditions of accessibility and non-discrimination.
- Complaints regarding inaccessibility polling stations.

For more information, see: Royal Decree 422/2011, of 25 March 2011, approving the Regulation on the basic conditions for the participation of persons with disabilities in political life and electoral processes (Real Decreto 422/2011, de 25 de marzo, por el que se aprueba el Reglamento sobre las condiciones básicas para la participación de las personas con discapacidad en la vida política y en los procesos electorales)

Has the CRPD been ratified without a reservation or declaration to Article 12 on equal recognition before the law?

Article 12 addresses the right to equality before the law and the issue of legal capacity, which is the law's recognition of the decisions a person makes. It lies at the heart of a human rights based approach to disability and underpins the exercise of many other rights. The

⁴⁰ UN, Committee on the Rights of Persons with Disabilities (2012a), para. 45.

⁴¹ UN, Committee on the Rights of Persons with Disabilities (2013b), para. 49.

⁴² UN, Committee on the Rights of Persons with Disabilities (2011b), para. 48

FRA report on legal capacity discusses this issue and sets out the nature of the obligations stemming from Article 12 in more detail.⁴³

Article 12 is relevant to the right to political participation because in many jurisdictions a person whose legal capacity is deprived or restricted is – either automatically or through a judicial process – deprived of the right to vote and to stand for election (see indicator 2.2.1). In some jurisdictions they are also deprived of the right to join or form associations such as non-governmental organisations, political parties or trade unions. This calls into question the fulfilment of the principle of non-discrimination enshrined in Article 29 which states that state parties “shall guarantee persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others”.

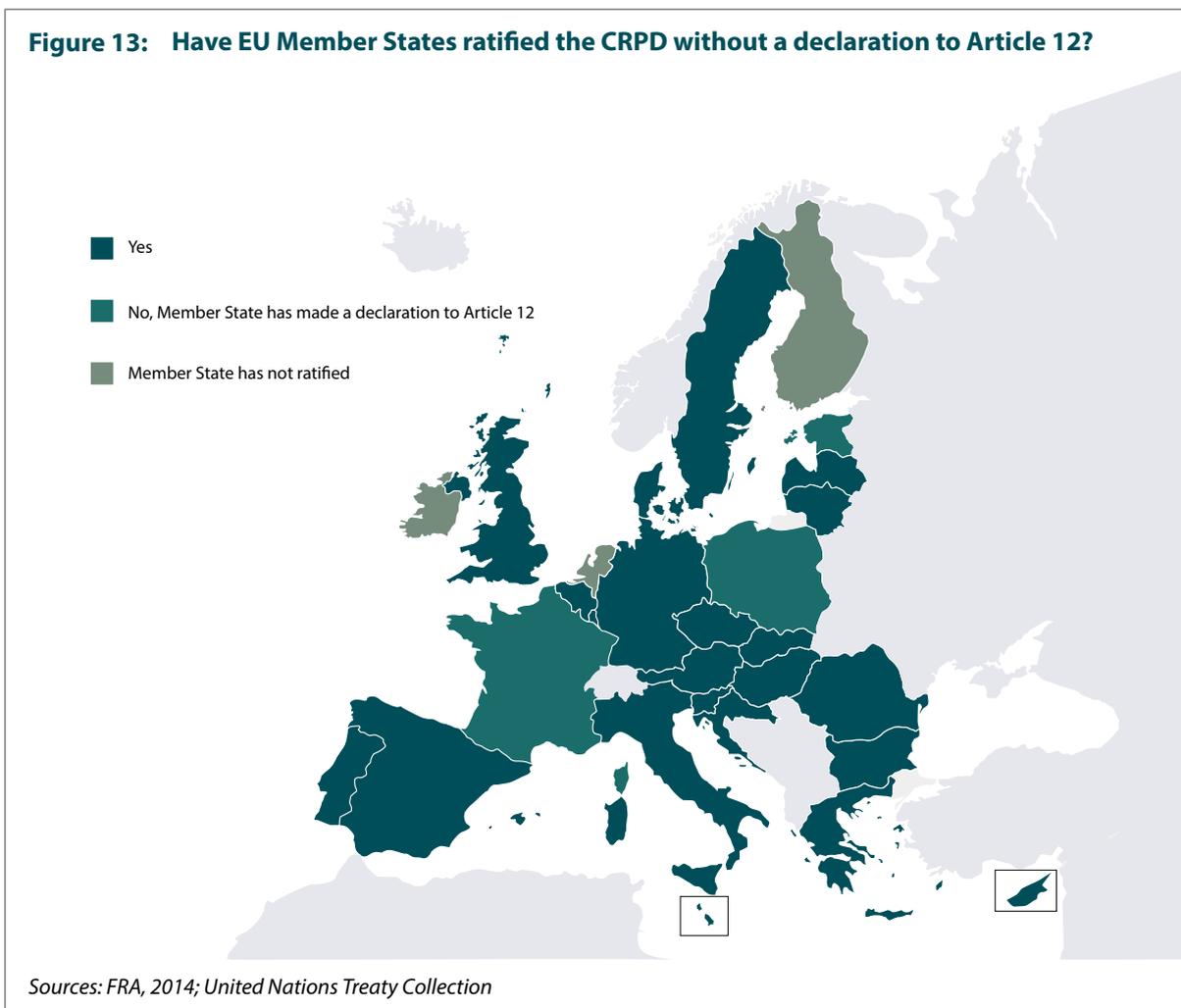
As with a reservation, a state party can ratify a treaty with a declaration setting out a state’s interpretation of how it will implement the article or part of an article.

A declaration, distinct from a reservation (see indicator 2.1.1), is not seeking to limit or alter the legal effects of a provision. Still, in practice, the interpretative effects of a state in a declaration, can amount to a *de facto* reservation by having similar effect.

Of the EU Member States that have ratified the CRPD, **Estonia, France and Poland** have entered a declaration to Article 12. These declarations provide that they 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. The declarations therefore have the effect of limiting the right to political participation of persons who have been deprived of their legal capacity. No EU Member States have made a reservation to Article 12 of the CRPD.

Estonia’s declaration sets out that, in its view, Article 12 does not prevent restricting a person’s legal capacity “when such need arises from the person’s ability to understand and direct his or her

Figure 13: Have EU Member States ratified the CRPD without a declaration to Article 12?



43 FRA (2013b).

actions".⁴⁴ Similarly, **France's** declaration states that legal capacity "may not be restricted except in the conditions and in accordance with the modalities provided for in Article 12 of the Convention", which it interprets as permitting a judge to deprive a person with a disability of the right to vote.⁴⁵ In its declaration, **Poland** confirms it will continue to restrict the legal capacity of people with disabilities as it views such a restriction as a type of safeguard under Article 12 (4).⁴⁶

The CRPD Committee has commented extensively on the link between legal capacity and political participation. In its General Comment on Article 12, the Committee states that a "person's decision-making ability cannot be used to justify any exclusion of persons with disabilities from exercising their political rights, including the right to vote, to stand for election, and to serve as a member of a jury."⁴⁷

Promising practice

Giving supported decision-making a legal basis

The CRPD Committee's concluding observations on Article 12 of the CRPD, along with the general comment on Article 12, have made clear its view that state parties to the convention must replace substituted decision-making systems with supported decision-making schemes. The draft Assisted Decision-Making (Capacity) Bill in **Ireland** sets out a legislative basis for providing support to people who may need assistance in making decisions. It foresees the abolition of the existing ward of court system, an automatic review of all those currently under wardship and the introduction of the power to make legally binding agreements with supports for assistance in decision making, without incurring a loss of legal capacity. Civil society was extensively engaged in elaborating the draft bill.

For more information, see: www.justice.ie/en/JELR/Pages/Civil_law_reform_proposed_legislation

On the issue of support and reasonable accommodation, the Committee has underlined that state parties must, "protect and promote the right of persons with disabilities to access support of their choosing in voting by secret ballot" and "guarantee the right of persons with disabilities to stand for elections, to effectively hold office and to perform all public functions at all

levels of government, with reasonable accommodation, and support, where desired, to exercise legal capacity."⁴⁸ To ensure that this happens in practice, the Committee has recommended that state parties "provide training, in consultation and cooperation with persons with disabilities and their representative organisations, at the national, regional and local levels, for all actors [...] on recognition of the legal capacity of persons with disabilities and on mechanisms of supported decision-making."⁴⁹

Has the CRPD been ratified without a reservation or declaration to Article 9 on accessibility?

Accessibility is one of the key principles of the CRPD and a "vital pre-condition for effective and equal enjoyment of different civil, political, economic, social and cultural rights by persons with disabilities."⁵⁰ Article 9 sets out an obligation for state parties to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, information and communications, and to other facilities and services open or provided to the public. Measures to be taken include the identification and elimination of obstacles and barriers to accessibility.

Access, free of obstacles and barriers, is essential at all stages of the political process. Having access to public buildings used as polling stations or for political meetings, for example, is vital to persons with disabilities as voters and candidates for public office. Access to information and communications provided to the public are equally important, as participating in political life requires the ability to make choices based on publicly available information and to communicate one's political agenda as a candidate in elections.

No EU Member State that has ratified the CRPD entered either a reservation or declaration to Article 9, meaning that all have accepted its provisions in full.

In examining the relationship between accessibility and political participation, the CRPD Committee has highlighted many of the issues reflected in the indicators presented in this report, including the accessibility of buildings and the physical environment, of information and of the materials and processes associated with political participation. The committee observed, for example, that the right to participate in political and public life cannot be effectively and equally exercised if governments "fail to ensure that voting procedures,

44 United Nations Treaty Collection.

45 FRA (2010), p. 18.

46 United Nations Treaty Collection.

47 UN, Committee on the Rights of Persons with Disabilities (2013c), p. 11.

48 *Ibid.*

49 UN, Committee on the Rights of Persons with Disabilities (2013b), para. 28.

50 UN, Committee on the Rights of Persons with Disabilities (2013a), p. 2.

facilities and materials are appropriate, accessible and easy to understand and use” and emphasised the importance of ensuring accessibility of “political meetings and materials used by and produced by political parties or individual candidates participating in the public elections”. Once elected as an official, a person with disabilities “must have equal opportunities to carry that office out in a fully accessible environment”.⁵¹

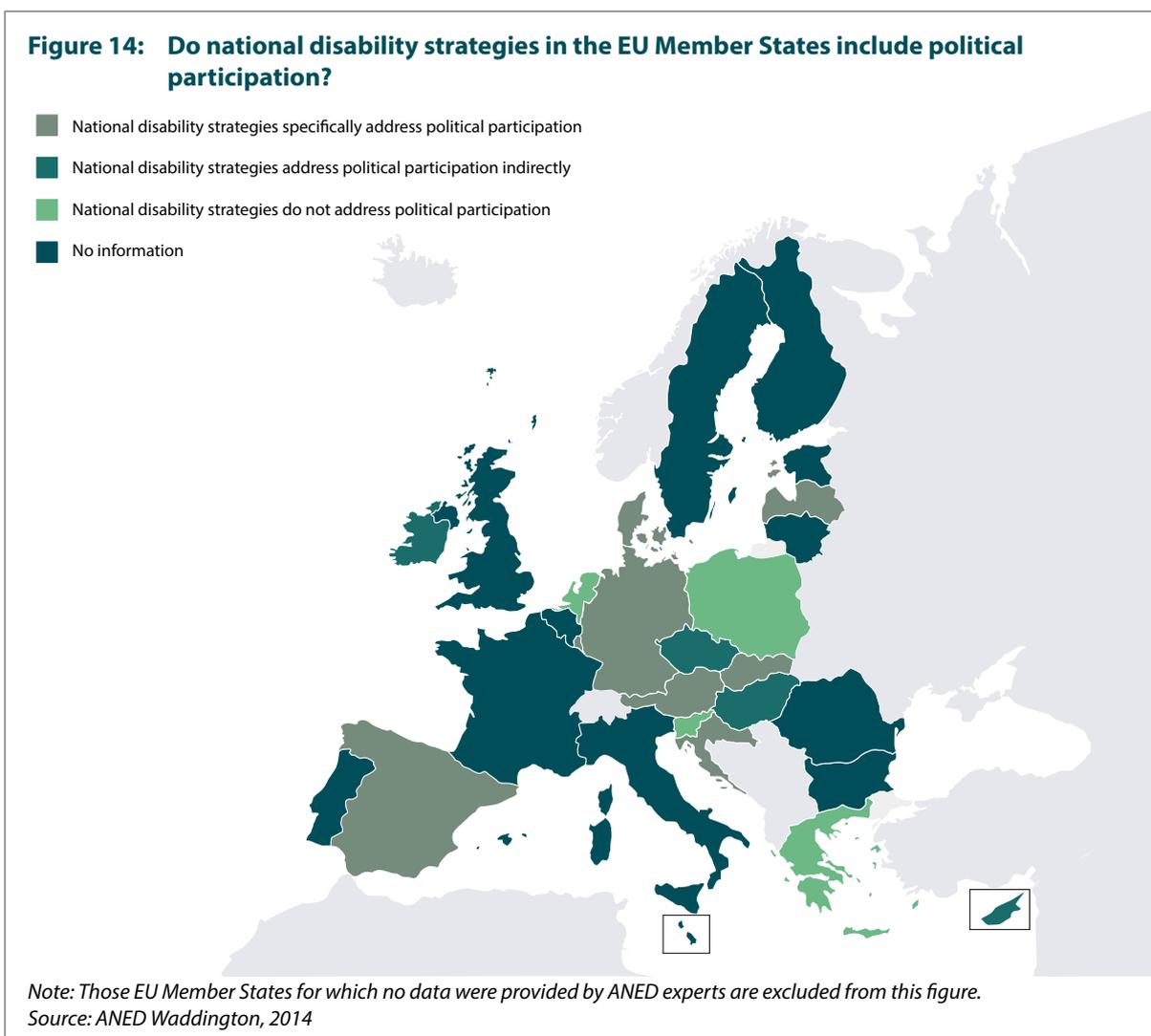
Do EU Member States’ national strategies or action plans on disability include the right to political participation?

Although not a specific obligation under the CRPD, disability strategies and action plans can play an important role in coordinating and guiding the implementation of the convention at the national level by highlighting

areas which will be at the forefront of government action. In setting out particular milestones which the government intends to reach by the end of the period covered by the plan, they can also act as a baseline against which the implementation of the CRPD can be measured.

Both the Council of Europe⁵² and the EU⁵³ have developed disability action plans which include measures related to the political participation of persons with disabilities. This indicator assesses whether EU Member States’ national disability strategies and action plans also address this issue.

National disability strategies or action plans explicitly address political participation in eight EU Member States: **Austria, Croatia, Denmark, Germany, Latvia, Luxembourg** and **Spain** as well as **Slovakia** where a



51 UN, Committee on the Rights of Persons with Disabilities (2013a), p. 11.

52 Council of Europe, Committee of Ministers (2006).
 53 European Commission (2010a).

draft national disability programme 2014–2017 is being finalised.⁵⁴ The **German** National Action Plan, for example, covers the social and political participation of persons with disabilities in Chapter 3, which addresses anti-discrimination, empowerment and self-help, participation in elections and e-Government, among other issues.⁵⁵ The **Latvian** Guidelines for the Implementation of the CRPD 2014–2020 highlight a number of key challenges in the area of political participation, including a lack of accessible information, and the absence of alternative means of voting or legislation prescribing how assistance is to be provided to persons with disabilities in the electoral process.⁵⁶

In **Cyprus**, the **Czech Republic**, **Hungary** and **Ireland**, political participation is not explicitly covered by the national action plan or strategy on disability, but it is indirectly addressed. The **Czech** National plan for creating equal opportunities for persons with disabilities 2010–2014 does not, for example, have a section on political participation but calls for the implementation of Article 12 of the CRPD on legal capacity.⁵⁷

Finally, the analysis indicates that in a further four EU Member States, **Greece**, the **Netherlands**, **Poland** and **Slovenia**, there is no national disability action plan or strategy. This does not mean, however, that there are no other policies or activities which aim to increase the political participation of persons with disabilities.

Promising practice

Making action plans concrete

The **Croatian** National Strategy of Equalisation of Opportunities for Persons with Disabilities 2007–2015⁵⁸ addresses political participation of persons with disabilities in Chapter 2.11, 'Participation in political and public life'. The strategy is notable for identifying measures through which the objectives can be achieved:

- provide technical support or other forms of assistance so that fundamental documents significant for political participation on local, regional and national level could be available to interested persons with disabilities;
- research the attitudes of members of all representative bodies on the political dimensions of disability and inclusion of persons with various kinds of impairments into political life;

54 A document which has been approved by the Slovak government is expected to be published in early 2014.

55 Germany, Federal Ministry of Labour and Social Affairs (2011).

56 Latvia, Ministry of Welfare (2013).

57 Czech Republic, Government Board for People with Disabilities (2010).

58 Croatia (2007a).

- monitor the equal participation of persons with disabilities regarding realisation of their voting rights;
- inform representatives of judiciary and executive authorities, state and public officials and the wider public about basic principles and ways of inclusion of persons with disabilities in political and public life of the community;
- implement a campaign for the promotion of the United Nations Convention on the Rights of Persons with Disabilities;
- implement research on the public representation of persons with disabilities through organisations and their associations and recommend efficient and fair representation of their various interests and needs;
- promote the participation of women and younger persons with disabilities in public and political activities on all levels;
- provide additional formal and non-formal education for persons with disabilities with the objective of strengthening inclusion in public and political life.

For more information, see: www.mspm.hr/media/files/nacionalna_strategija_izjednavanja_mogucnosti_za_osobe_s_invaliditetom2

2.2 The legal status of the right of persons with disabilities to vote in EU Member States

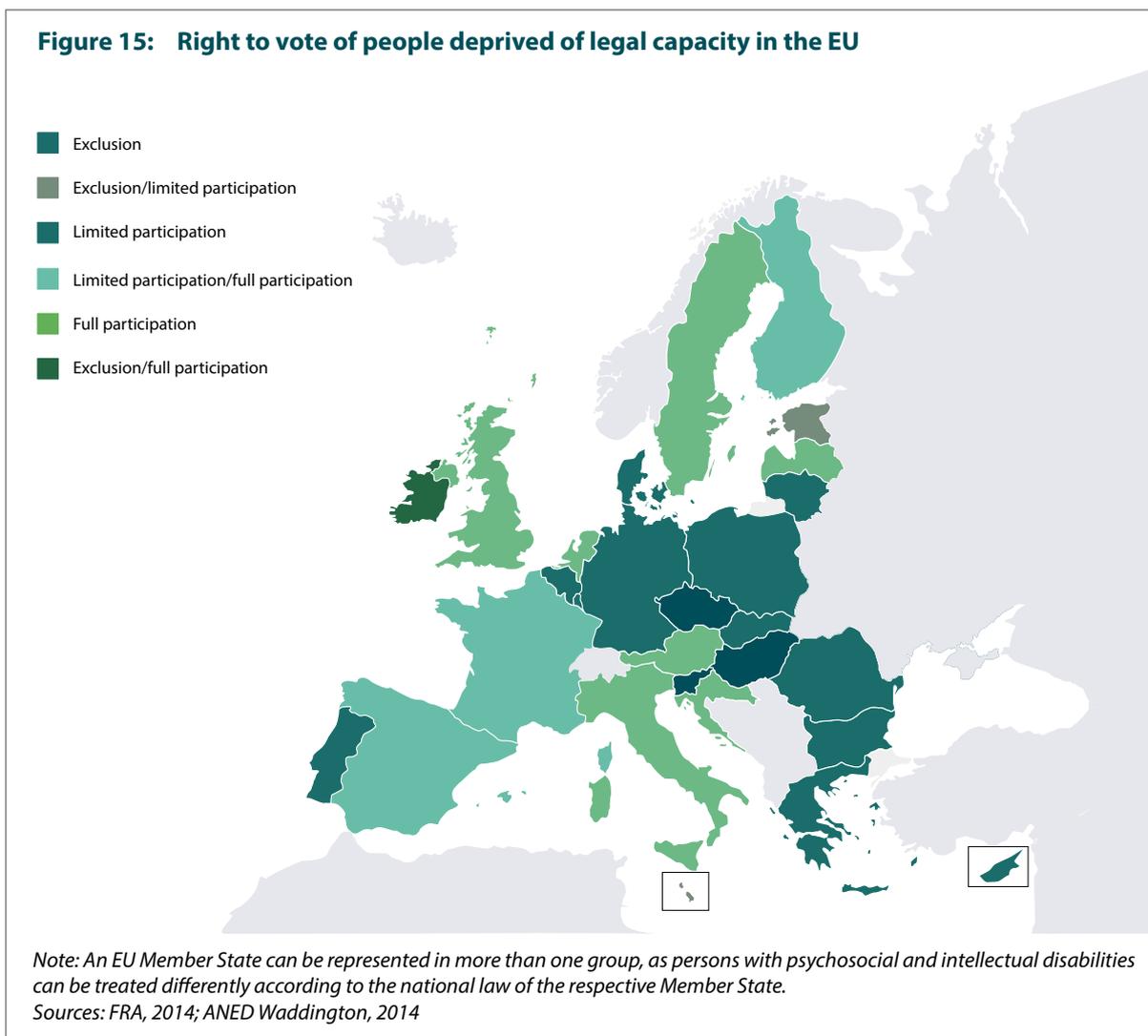
Elections in the EU, including European Parliament elections, are organised and administered at the level of the EU Member States. This includes the responsibility to decide who is entitled to vote, as the right to vote is not universal, as well as the preparation of the electoral roll. These indicators consider some of the key legal issues associated with the legal status of the right of persons with disabilities to vote.

Can persons deprived of legal capacity vote?

As highlighted in the FRA report on *The right to political participation of persons with mental health problems and persons with intellectual disabilities*,⁵⁹ and subsequent updates the FRA Annual Report,⁶⁰ the right to vote is often linked in national legislation to legal capacity. This means that people who have been deprived of their legal capacity, either wholly or in part, are prohibited from voting (see indicator 2.1.2). This pos-

59 FRA (2010).

60 FRA (2013a), pp. 213–232.



sible limitation on the right to political participation does not apply to all persons with disabilities. Persons with psychosocial or intellectual disabilities are disproportionately affected.

The CRPD states that each adult citizen has the right to vote on an equal basis with others. Reflecting this, the CRPD Committee has expressed concern over legislation that “allows for the right to vote of persons with intellectual or psycho-social disabilities to be restricted if the person concerned has been deprived of his or her legal capacity”.⁶¹

This indicator identifies whether legislation in EU Member States restricts the right to vote for persons deprived of legal capacity. It divides Member States into those where all persons with intellectual or psychosocial disabilities have the right to vote (full

participation); those where retaining these rights is contingent on a judicial or medical decision (limited participation); and those where all persons deprived of their legal capacity are automatically deprived of the right to vote (exclusion).

Seven out of the 28 EU Member States – **Austria, Croatia, Italy, Latvia, the Netherlands, Sweden and the United Kingdom** – guarantee the right to vote for all persons with disabilities, including those without legal capacity. In **Croatia**, legal reform in December 2012 abolished the exclusion of persons without legal capacity from the right to vote,⁶² meaning that people deprived of legal capacity were able to participate in the European Parliament and local elections in 2013. Similarly, amendments to the **Latvian** Civil Code which came into force in 2013 end the denial of the right to vote for those deprived of legal capacity.⁶³ The relevant electoral legislation

61 UN, Committee on the Rights of Persons with Disabilities (2012b), para. 45.

62 Croatia (2007b).

63 Latvia (2012).

has not yet been amended, however, meaning people deprived of legal capacity can be barred from voting.⁶⁴

A second group of EU Member States have a system whereby an assessment is made of the individual's actual ability to vote. In **Hungary**, a system where everyone under guardianship was prohibited from voting was changed in 2012; now judges decide whether persons with "limited mental capacities" are allowed to vote.⁶⁵ In **Slovenia**, the legal test for judges deciding whether to restrict the right to vote is whether the person with a disability is capable of understanding the meaning, purpose and effect of elections.⁶⁶

A further 15 EU Member States prohibit people with disabilities who have been deprived of their legal capacity from voting. The Member States are **Belgium, Bulgaria, Cyprus, Denmark, Estonia, Germany, Greece, Ireland, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania and Slovakia**. This exclusion is either set out in the country's constitution or in electoral legislation. The **German** Federal Election Law is an example of this second approach. Persons for whom a custodian to manage all their affairs is appointed, not just by temporary order, are automatically deprived of their voting rights.⁶⁷

Promising practice

Ending the deprivation of the right to vote

Croatia changed its electoral legislation to allow persons deprived of legal capacity to vote for the first time in the 2013 European Parliament elections. To promote voting in this group, and amongst those in residential institutions, the Ministry of Social Policy and Youth (*Ministarstvo socijalne politike i mladih*) sent written instructions to residential social welfare institutions, family homes, NGOs and religious organisations providing residential care, as well as to centres for social welfare. They were asked to inform their clients about the elections and relevant procedures, to collect the forms needed for voter registration and to ask families to assist in the process. The Ministry collected information on voter turnout from residential institutions, and for persons deprived of legal capacity specifically.

For more information, see:
<http://mspm.hr/content/search?SearchText=izbori>

Organisations of and for people with disabilities play an important role in reforms to remove barriers to the right to vote. Training for **Latvian** NGOs

provided by the Mental Disability Advocacy Centre concentrates on developing tools and building capacity on how to advocate for legislative reform in the area of legal capacity.

For more information, see:
<http://mdac.info/en/where-we-work/latvia>

Is there a requirement under law to register to vote?

Some EU Member States require potential voters to register before they are able to vote. This requirement can apply either to all prospective voters, or only to certain groups such as non-citizens who are resident in the country at the time of an election. This second group are particularly important in the context of the EU as Article 20 (2) (b) of the TFEU allow all persons with EU citizenship "to vote and to stand as a candidate in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as the nationals of that state". This is reiterated in Articles 39 and 40 of the Charter. Again, Article 21 of the Charter underscores the obligation to ensure non-discrimination in all areas of EU action.

A requirement to register to vote can hinder the political participation of persons with disabilities if voting registration procedures are inaccessible. Burdens associated with inaccessible registration could also be seen as indirect discrimination on the grounds of disability if reasonable accommodations are not given.⁶⁸ This is especially relevant if special registration as a person with a disability is required to be able to vote at an accessible polling station, use an alternative means of voting such as postal voting or a mobile ballot box, or to request support or assistance on polling day.

In slightly more than half (15) of the EU Member States, there is automatic registration for all voters. Several of these Member States have, however, specific provisions which require people with disabilities who would like support or assistance to vote to request such reasonable accommodations well in advance of polling day. In **Bulgaria**, for example, people who cannot vote at their assigned polling station for reasons associated with a disability have to request permission for mobile voting 30 days prior to election day,⁶⁹ while in **Poland**, voters with disabilities can change their place of voting to a more accessible polling station if they notify the authorities at least 14 days before the vote.⁷⁰

64 Latvia (2004) and Latvia (2001).

65 Hungary, Fundamental Law of Hungary, Article XXIII, para. 6.

66 Slovenia (1992).

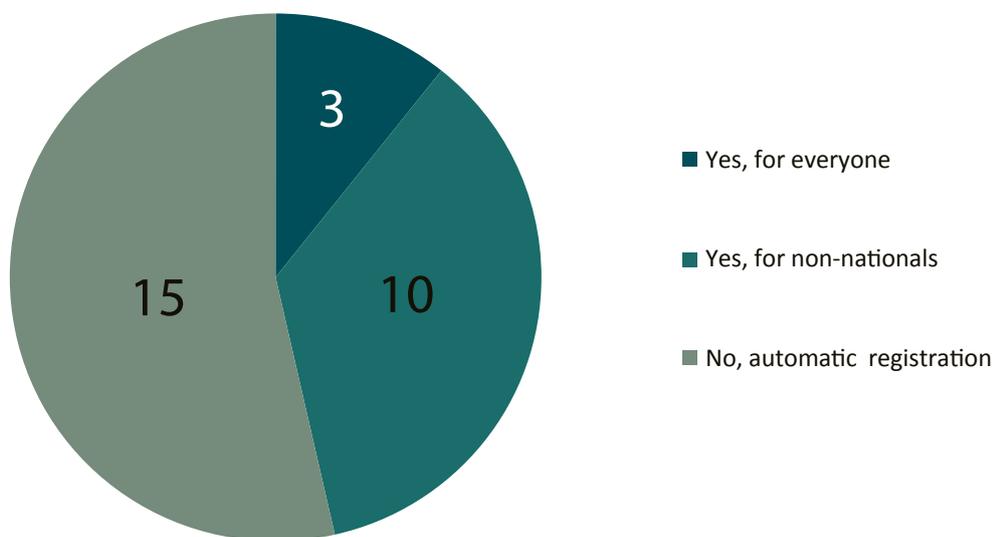
67 FRA (2010); Art. 13 (2) of the Federal Electoral Law.

68 For more information on the link between discrimination and reasonable accommodation, see FRA (2011a).

69 Bulgaria, Electoral Code, Art. 176, para. 1.

70 Poland (2011a).

Figure 16: Is there a requirement under law to register to vote?



Source: FRA, 2014

Ten Member States – **Austria, Belgium, Croatia, Denmark, France, Greece, Italy, Luxembourg, Malta and Poland** – require non-nationals to register to vote. This includes EU citizens who have exercised their right to free movement and who would like to vote in European Parliament or municipal elections in their Member State of residence. In **France**, for example, non-nationals need to register to be included on a supplementary electoral roll (*liste électorale complémentaire*), whereas in **Greece** they must register to be added to the special voting registers of their place of residence. As with the group above, some Member States have additional registration requirements for persons with disabilities. Voters in **Italy**, for example, who would like to be accompanied to the polling station by a relative or another person must first register with the municipal electoral office as a person with a permanent disability.⁷¹

Three EU Member States, **Cyprus, Ireland** and the **United Kingdom**, require all voters to register ahead of an election. In the United Kingdom, new Individual Electoral Registration has recently been introduced, requiring an individual to register and provide further identification.⁷² This means that voters with disabilities who could previously vote by post or by proxy will need to re-register.

Are alternative ways of voting available to persons with disabilities?

Although most people cast their votes at polling stations, other methods of voting such as postal voting, e-voting, or voting by proxy are also possible. These alternative means of voting can either be available to all voters or designed to enable those who would otherwise be unable to reach a polling station to vote on election day, for example because of absence, residence abroad or illness, as well as disability.

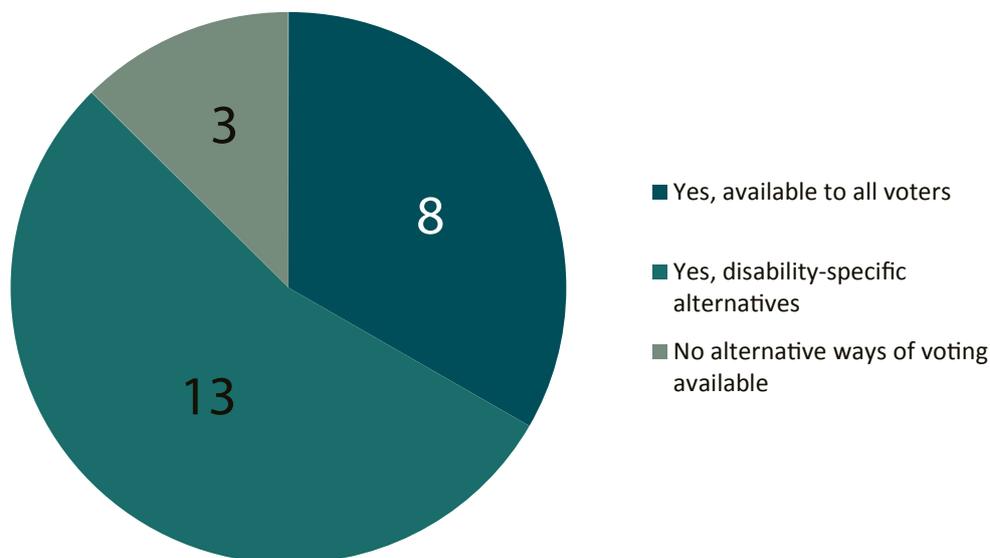
While different ways of voting can enable people who would otherwise be prevented from doing so to exercise their right to vote, these measures should not be used as an alternative to making voting processes more accessible. General “reliance on [...] alternative voting as a way to ensure the political participation of persons with disabilities would not be consistent with the general obligations undertaken by state parties under Articles 4 and 29 of the convention”.⁷³

In eight EU Member States, **Austria, Denmark, Estonia, Finland, Germany, Lithuania**, the **Netherlands** and the **United Kingdom**, all voters can vote using alternative methods, typically postal voting. In the **Netherlands** and the **United Kingdom**, proxy voting is permitted, although in the Netherlands nobody may cast more than two votes by proxy per election.

71 Italy, Law 5 February 2003, No. 17.

72 United Kingdom, Parliament (2013).

73 UN, OHCHR (2011), para. 74.

Figure 17: Is there a requirement under law to register to vote?

Note: Those EU Member States for which no data were provided by ANED experts are excluded from this figure.
Source: ANED Lawson, 2014

In a second group, comprising nearly half (13) of EU Member States, alternatives to voting at a polling station are available only to persons with disabilities or health problems. The most common measure is for voting to be permitted at the voter's place of residence, in the presence of electoral officials. In **Ireland, Luxembourg and Poland**, however, postal voting is available for persons whose disability or health problem prevents them from getting to a polling station, while proxy voting is a possibility for these individuals in **Poland and Sweden**.

In **Cyprus, Greece and Portugal**, votes may only be cast in polling stations.

Promising practice

Developing accessible alternative forms of voting

Remote electronic voting is available in **Estonia**, through a website that is compliant with the Web Content Accessibility Guidelines (WCAG) standards for web accessibility (see indicator 2.3.1 for more information on these standards).

Estonia was the first EU Member State to introduce e-voting in local (2005) and national elections (2007), thus enhancing accessibility and increasing voter participation.

For blind persons and persons with visual impairments, the website www.valimised.ee is accessible through JAWS screen reading software, which

can deliver text-to-speech output with a refreshable Braille display or Braille output.

For more information, see:

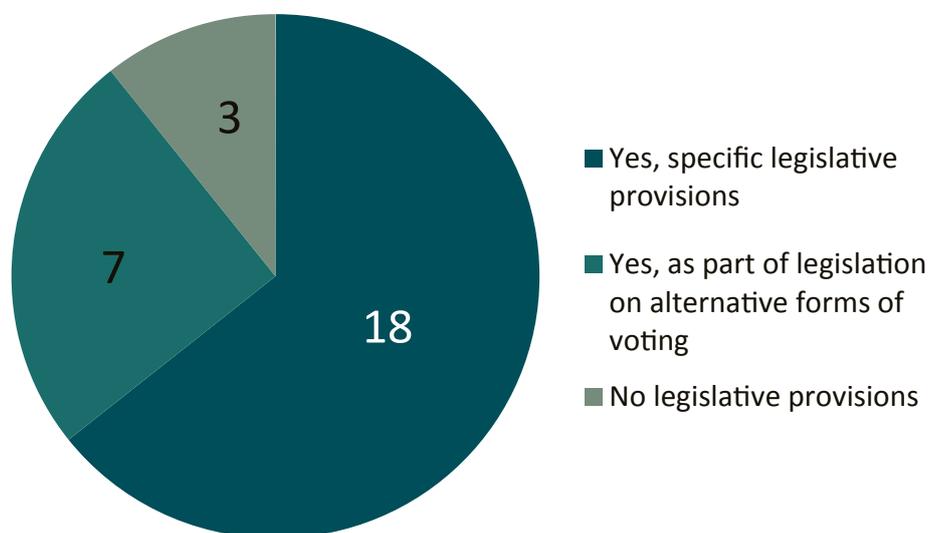
www.vvk.ee/voting-methods-in-estonia/engindex/ and www.eesti.ee/portaal/portaal.sisene?level=30&loc=valimised.valijakaart

Is there legislation in place regulating how people living in long-term institutions may vote?

Although Article 19 of the CRPD sets out the right to live in the community, many people with disabilities live in long-term institutions. The CRPD is clear that people with disabilities enjoy rights on an equal basis with others, regardless of where they live. However, living in an institution can present particular problems in exercising the right to vote: reaching a polling station can be difficult, for example, because some institutions are located in remote areas, there is a lack of available or accessible transport, or residents are not able to leave the institution without assistance.

Legislative provisions to ensure that persons living in institutions can exercise their right to vote can involve providing alternative forms of voting (see indicator 2.2.3. above), or setting up voting booths at institutions or allowing mobile ballot boxes which can be brought to institutions. Such measures should take into account the importance of guaranteeing the secrecy of the vote and ensuring that persons with disabilities can make a free choice of candidate or party to support without undue influence from others.

Figure 18: Is there legislation in EU Member States regulating how people living in long-term institutions may vote?



Source: FRA, 2014

Eighteen EU Member States have specific legislation regulating how persons living in long-term institutions may vote. Such legislation can take a number of different forms. In **Austria, Bulgaria, Finland, France, Germany and Poland**, for example, the law provides for polling stations to be set up at long-term institutions, although in **Italy** an institution must have at least 200 beds before a polling station can be opened.⁷⁴ **Hungary, Latvia, Lithuania, Slovakia and Slovenia** also provide for polling stations at long-term institutions but require an individual application or notification to use such a polling station in advance, which could act as a barrier to exercising the right to vote. In **Croatia**, the government assigns polling stations for people living long term in institutions.⁷⁵ For the 2013 European parliamentary elections, polling stations were assigned for 13 institutions, selected out of 253 long-term institutions due to their remote location and other circumstances that would prevent persons with disabilities from voting at regular polling stations.⁷⁶

In **Denmark, Luxembourg, the Netherlands, Romania, Spain, Sweden** and the **United Kingdom** provisions regarding the voting of persons living in long-term institutions are part of general measures on alternative forms of voting. Mobile polling stations are not provided for in these countries, except in **Romania** where

a mobile ballot box may be provided for national elections if a person requests it with medical proof that he or she cannot be transported to a polling station. The request must be approved by the president of the election bureau in the voting district.⁷⁷

In **Belgium, Cyprus, and Greece**, the analysis indicated that there is no legislation setting out how people living long term in institutions can exercise the right to vote.

Promising practice

Enabling people living in institutions to vote

For persons living in institutions, **Finnish** legislation provides for advance polling stations or polling stations at those institutions. It stipulates that “hospitals, operational units of the social services offering round-the-clock treatment and other units determined by the municipal board and prisons (institutions)” are advance polling stations. Home voting is also available for homebound voters and their caregivers.

For more information, see: *Section 9 of the Election Act (Vaalilaki/Kommunallag) (714/1998)*

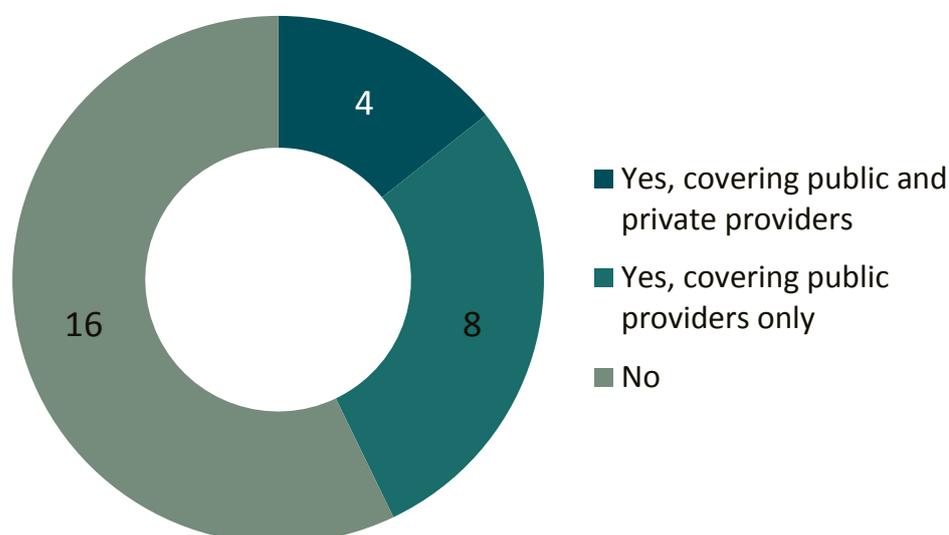
74 Italy, Law 27 January 2006, No. 22.

75 Croatia (2010).

76 Some of the information supplied in this chapter is based on in-house FRA indicator research.

77 Romania, Law No. 35 of 13 of March 2008, Art. 42, para. 22¹.

Figure 19: Are there legal accessibility standards for public and private providers of internet and web-based public information in EU Member States?



Source: FRA, 2014

2.3 Creating enabling conditions for the political participation of persons with disabilities

The CRPD, as well as Council of Europe and EU legal instruments, set a framework of general obligations and norms concerning the right to political participation of persons with disabilities. The indicators in this section give an overview of some of the laws and policies that may be required to translate these norms into practice.

Are there legal accessibility standards for public and private providers of internet-based public information?

Information is at the heart of political participation, as it allows citizens to be aware of the actions and priorities of public authorities as well as those holding or running for elected office. With much public information now provided on the internet, it is particularly important that web-based information be accessible to persons with disabilities. One step towards achieving this can be statutory accessibility standards for websites that provide public information.

Article 9 (1) of the CRPD specifically requires state parties to take measures to ensure the accessibility of

“information and communications, including information and communications technologies and systems”. Promoting e-accessibility is also at the heart of the European Disability Strategy 2010–2020, the e-Government Action Plan 2011–2015⁷⁸ and the Digital Agenda,⁷⁹ which set a target of full accessibility for public sector websites by 2015. In 2012, the European Commission published a proposal for a Directive on the accessibility of public sector bodies’ websites which would set a European standard for web accessibility.⁸⁰

This indicator measures whether public and private providers of internet and web-based information in the EU Member States are obliged by law to ensure that the information they publish is subject to accessibility standards, in particular the Web Content Accessibility Guidelines (WCAG) AA standards. These standards are published by the World Wide Web Consortium (W3C), the main international standards organisation for the internet, and aim to make web-based content accessible to people with disabilities.⁸¹ See indicator 4.2.3 for analysis of the accessibility of websites providing instructions for voting and information on candidates in practice.

⁷⁸ European Commission (2010b).

⁷⁹ European Commission (2010c).

⁸⁰ European Commission (2012a).

⁸¹ World Wide Web Consortium (W3C), Recommendations on Web Accessibility Standards from the W3C Working Group.

Sixteen EU Member States have no legal accessibility standards for providers of internet and web-based public information, the analysis shows. Only four Member States, **Austria, Belgium, Malta** and **Spain**, have statutory accessibility requirements for both public and private providers, set out in laws on electronic communication and/or equal treatment of persons with disabilities. In **Belgium**, for example, a regulatory and competition authority in the telecoms sector, the Institute for Postal Services and Telecommunications, can require that telecommunication providers ensure that end-users with disabilities have access to services adapted to their disability. Belgium also requires that those with disabilities have the same choice of telecommunication providers as other users.⁸²

Promising practice

Setting standards for website accessibility

The **Austrian** Federal e-Government Act obliges Austrian-based internet sites which provide public information to comply with international standards for web access. In addition, the Federal Act on the Equal Treatment of Persons with Disabilities requires public and private internet providers to make their products and services accessible for persons with disabilities. Providing understandable and accessible information relating to political participation is addressed in the National Action Plan on Disability 2012–2020, which stipulates that by 2020 the government must ensure “the offering of information about participation in elections in accessible and (as far as possible) understandable form, in printed and electronic versions” be realised.

For more information, see: Federal e-Government Act (E-Government-Gesetz); Federal Act on the Equal Treatment of Persons with Disabilities (Bundesgesetz über die Gleichstellung von Menschen mit Behinderung – Behindertengleichstellungsgesetz, BGStG); and National Action Plan on Disability 2012–2020. Strategy of the Austrian Federal Government for the Implementation of the UN Disability Rights Convention (Nationaler Aktionsplan Behinderung 2012–2020. Strategie der Österreichischen Bundesregierung zur Umsetzung der UN-Behindertenrechtskonvention)

In eight Member States, the **Czech Republic, France, Germany, Greece, Italy, Poland, Slovakia** and **Sweden**, website accessibility standards only apply to public providers. For example, in **Germany**, federal authorities are obliged to design their websites so that national rules

largely in line with (WCAG) 2.0 AA standards are met.⁸³ In the **Czech Republic**, there is a similar regulation on information on government office websites.⁸⁴

In several of the Member States where the FRA’s analysis found no legal accessibility requirements for providers of web-based information, there are some non-binding recommendations. The **Danish** parliament, for example, issued a resolution stating that the government should ensure that the public’s use of information technology complies with open standards, among others WCAG 2.0.⁸⁵ Similarly, the Advisory Committee on Information Management in Public Administration in **Finland** issued recommendations for web services in public administration which provide for a minimum accessibility standard of WCAG 2.0 A level to be met.⁸⁶

Are there legal accessibility standards for public and private audio-visual media?

Many citizens get information about the work of public authorities and elected representatives via audio-visual media, particularly television and radio. As with indicator 2.3.1, above, Article 9 (1) of the CRPD sets out the duty of state parties to the CRPD to ensure that all public and private information and media providers design and publish their information and communication so that they are accessible to persons with disabilities. Although not a legal obligation, the Audiovisual Media Service Directive prompts Member States to encourage media service providers under their jurisdiction to ensure that their services are made more accessible to people with visual or hearing impairments, including through subtitles and audio description.⁸⁷

This indicator assesses whether media providers in the EU Member States are under a statutory obligation to make their information and communications accessible to persons with disabilities. Having accessibility standards is, however, only one element of ensuring that the media are accessible to persons with disabilities. Measures to ensure that public information actually reaches persons with disabilities are also crucial. For information on whether television programmes providing instructions on voting and information on candidates are accessible to persons with disabilities in practice, see indicator 4.2.4.

83 Germany, Federal Disabled Persons Equality Act, Art. 11; and Germany, Federal Accessible Information Technology Ordinance.

84 Czech Republic, Ministry of Interior (2008).

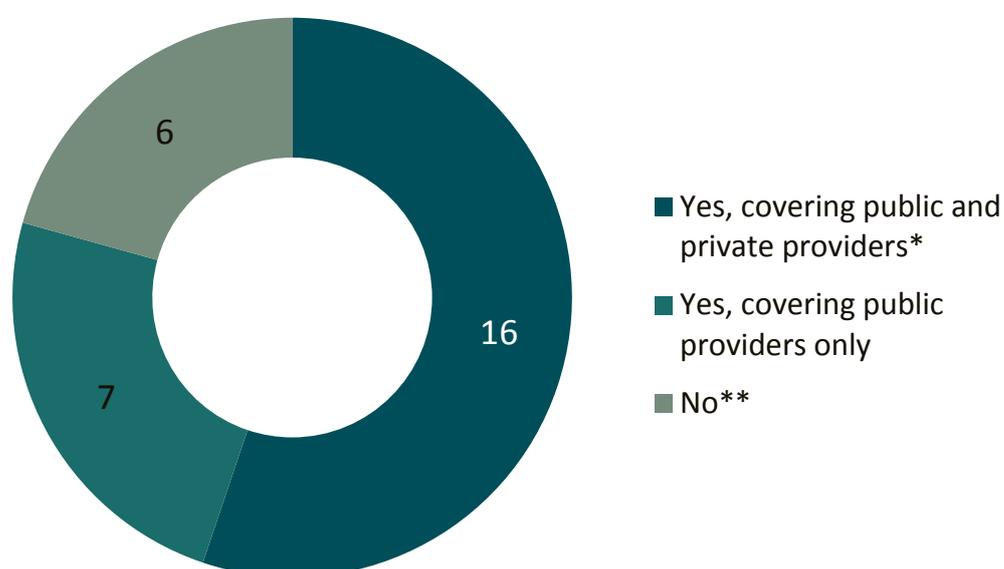
85 Denmark (2006).

86 Finland, Recommendations for developing and implementing web services in public administration.

87 Directive 2010/13/EU, OJ 2010 L 95.

82 Belgium, 13 June 2005, Art. 121/4.

Figure 20: Are there legal accessibility standards for public and private providers of media in EU Member States?



Notes: *for BE: Belgian Flemish Community; **for BE: Belgian French Community.
Source: FRA, 2014

Both public and private providers of media are subject to statutory accessibility standards in **Austria, Belgium** (the Flemish Community), **Cyprus, Finland, France, Germany, Greece, Hungary, Ireland**, the **Netherlands, Poland, Portugal, Romania, Slovakia, Spain** and **Sweden**, the analysis indicates. In these countries laws require broadcast (radio and television) media to provide subtitles, sign language interpretations and/or audio descriptions for all or part of the programmes broadcast. In **Cyprus**, for example, television broadcasters must make news bulletins accessible at specific hours for people who are deaf and hard of hearing.⁸⁸ **Spain** has requirements targeting particular impairment groups.⁸⁹

In a further seven Member States – **Bulgaria, Croatia**, the **Czech Republic, Denmark, Italy, Slovenia** and the **United Kingdom** – only public media providers are obliged to ensure that their broadcasts are accessible to persons with disabilities. In the **Czech Republic**, for example, the public television station Czech Television must add subtitles to a minimum of 70 % of their broadcasts and sign language interpretation to at least 2 %.⁹⁰

In many Member States the standards are supplemented by specific targets for increasing the proportion of audio-visual material that is accessible to persons with disabilities. In **Ireland**, for example, the Access Rules published by the Broadcasting Authority of Ireland in 2012 specify targets for each broadcaster regarding the percentage of programmes that have subtitling, Irish Sign Language interpretation and audio description. The targets rise each year until 2016.⁹¹ In some Member States the enforceability of these standards reflect financial and other resources. Public broadcasters in **Germany** must increase their offering of accessible programmes “within their technical and financial possibilities”, for example.⁹²

In the final group of six Member States, no evidence of a law regarding media accessibility was found. Data collected by FRA show that **Estonia** has no legal requirement to make broadcast media accessible, but media providers are encouraged by the public broadcasting authority to make information accessible to people with visual and hearing impairments.⁹³

88 Cyprus (2000), Art. 8 (3).

89 Spain (2010).

90 Czech Republic (1992).

91 Ireland, Broadcasting Authority of Ireland (2012).

92 Germany, State Broadcasting Treaty.

93 Estonia, Riigikogu (2010).

Promising practice

Raising standards of television and radio accessibility

The Decree on radio and on television in 2012 introduced, the principle of non-discrimination in commercial communication and public service announcements in the Flemish Community in **Belgium**. The decree includes the obligation for broadcasters to make a significant proportion of programmes accessible to people with visual and hearing impairments, while 100 % of both public and private broadcasters' news programmes must be subtitled.

For more information, see: Decree of 13 July 2012 amending various provisions of the Decree of 27 March 2009 on the radio and television (Decreet van 13 juli 2012 houdende wijziging van diverse bepalingen van het decreet van 27 maart 2009 betreffende radio-omroep en televisie)

Are there mandatory accessibility standards for national and local authority buildings?

Accessibility to the physical environment, including buildings, is required by Article 9 of the CRPD. Article 9(2)(a) highlights that one important way of making the physical environment accessible is to “develop, promulgate, and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public”. In addition, ensuring accessibility of the built environment is a key feature of the commitments made in the European Disability Strategy (2010–2020).⁹⁴

Providing accessibility to public buildings, such as polling stations and local and national government buildings, is vital to ensure that persons with disabilities can exercise the right to vote and participate fully in public discussions on political issues. Physical accessibility measures have relevance for all persons with disabilities, not only those with physical impairments. They include installing ramps, lifts, wheelchair-accessible bathrooms and providing information in Braille.

This indicator assesses whether EU Member States have mandatory accessibility standards for the construction or significant alteration of public authority buildings. It is based on data collected for a European Commission-funded study under standardisation mandate 420⁹⁵ and published in 2011.⁹⁶ The study gathered information through questionnaires sent to national experts concerning existing legislation, standards and/or expert guidelines on accessibility requirements in the built

⁹⁴ European Commission (2010a)

⁹⁵ European Commission (2011).

⁹⁶ Secretariat AENOR (2011).

environment in their country.⁹⁷ For information on the accessibility of national and local authority buildings for persons with disabilities in practice, see indicator 4.2.2.

The FRA's analysis indicates that 15 EU Member States, **Austria, Belgium, the Czech Republic, Denmark, Finland, France, Hungary, Ireland, Italy, Lithuania, Luxembourg, Poland, Portugal, Spain** and the **United Kingdom** have mandatory accessibility standards for the construction and alteration of national and local authority buildings. In most countries in this group, accessibility requirements are provided for in building regulations, which means that to be granted a permit to build or to alter existing buildings, accessibility standards must be met.

Even when standards are in place, there is an ongoing challenge to ensure they are effectively and consistently enforced. In **Spain**, for example, accessibility criteria are the same for new and existing buildings. However, the law that protects historical buildings is reportedly often used to avoid making buildings accessible.⁹⁸ For information regarding the proportion of public authority buildings that are accessible for persons with disabilities in practice, see indicator 4.2.2.

Promising practice

Setting deadlines for buildings to be accessible

The **Austrian** National Action Plan on Disability 2012–2020 foresees the full implementation of accessibility standards of public buildings by 2020. The basis for accessible building is the ÖNORM B 1600 standard, which sets out minimum requirements for an accessible built environment. Based on these standards, the ÖNORM B 1610 standards on accessibility criteria for existing buildings were developed in 2008. The action plan also includes a measure on consulting the representatives of DPOs in all major building projects subsidised by the federal government.

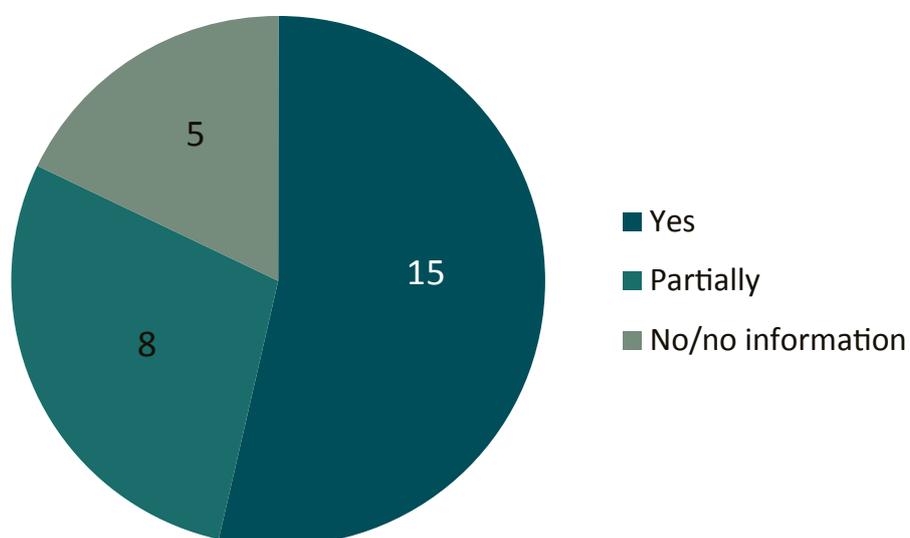
For more information, see: BMASK (2012), National Action Plan on Disability 2012–2020. Strategy of the Austrian Federal Government for the Implementation of the UN Disability Rights Convention (Nationaler Aktionsplan Behinderung 2012–2020. Strategie der Österreichischen Bundesregierung zur Umsetzung der UN-Behindertenrechtskonvention), available at: www.bmask.gv.at/cms/site/attachments/7/4/9/CH2092/CMS1359980335644/nap_behinderung-web_2013-01-30_eng.pdf

In the second group of Member States, **Cyprus, Germany, Greece** and **Sweden**, legislation allows for exceptions or only requires the partial application of accessibility standards when altering existing buildings. In **Cyprus**, steps to make existing buildings

⁹⁷ *Ibid.*, p. 235.

⁹⁸ *Ibid.*, p. 288.

Figure 21: Are there mandatory accessibility standards in EU Member States for national and local authority buildings?



Sources: FRA, 2014; Secretariat AENOR Mandate 420, 2011

accessible must be 'feasible'. Where accessibility is difficult to achieve, a committee adjudicates on the degree to which accessibility standards must be implemented.⁹⁹ No information was given in the report on accessibility standards in force for new and existing buildings in **Slovenia**, and there were no rapporteurs or national experts identified to provide information for **Bulgaria, Croatia, Estonia** and **Latvia**. The information provided for **Malta, the Netherlands, Romania** and **Slovakia** is insufficient to conclude whether accessibility standards apply both to new and existing buildings.

Are there legal accessibility standards for polling stations?

As well as general accessibility standards covering public authority buildings (see indicator 2.3.3), one way to ensure that persons with disabilities are able to exercise their right to vote is to establish specific legally binding accessibility standards for polling stations. To be fully accessible, polling stations need to take into account the needs of persons with different types of impairments.

Article 29 of the CRPD requires state parties to ensure that voting facilities and materials are "appropriate, accessible and easy to understand and use". Under the theme of 'Participation', the European Disability Strategy

(2010–2020) includes a measure on supporting Member States to ensure that people with disabilities can fully exercise their electoral rights by developing and disseminating standards on accessible election facilities.¹⁰⁰

As with the previous indicators, the existence of such a law is not essential for ensuring an accessible voting system. However, a legal requirement for polling stations to be accessible, particularly when combined with detailed guidelines setting out criteria for accessibility (see indicator 3.1.3), can be an important sign of commitment to implement Article 29 of the CRPD. For analysis of how many polling stations are accessible for persons with disabilities in practice, see indicator 4.2.1.

The research indicates that in 12 EU Member States, **Croatia, Estonia, France, Germany, Ireland, Lithuania, Luxembourg, Malta, Portugal, Spain, Sweden** and the **United Kingdom**, have legal accessibility standards which apply to all polling stations. Within this group there is, however, considerable variation in the nature and scope of the legal requirements. In **Ireland**¹⁰¹ and **Spain**,¹⁰² for example, legislation contains detailed accessibility requirements, with a particular focus on persons using wheelchairs and persons with visual impairments. In contrast, in **Croatia**,¹⁰³ **Sweden**¹⁰⁴ and

¹⁰⁰ European Commission (2010a).

¹⁰¹ Ireland (1996).

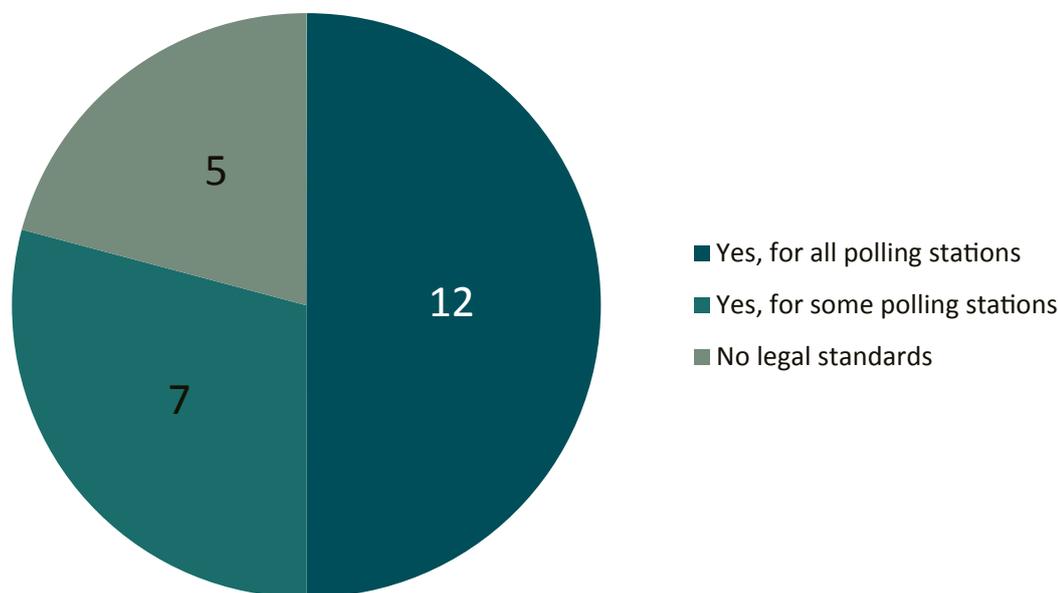
¹⁰² Spain (2007a).

¹⁰³ Croatia (2012); and Croatia (2011).

¹⁰⁴ Sweden (2005).

⁹⁹ *Ibid.*, p. 247.

Figure 22: Are there legal accessibility standards for polling stations in the EU Member States?



*Note: those EU Member States for which no data were provided by ANED experts are excluded from this figure.
Source: ANED Lawson, 2014*

the **United Kingdom**,¹⁰⁵ accessibility is mentioned as one of the factors which must be taken into account by authorities in the selection of polling stations.

In a second group of Member States legislation concerning the accessibility of polling stations applies only to a certain number or proportion of polling stations. In **Belgium**, one in five polling stations must be accessible;¹⁰⁶ in **Poland**, one in three;¹⁰⁷ and in the **Netherlands**, at least one in four polling stations must be “as accessible as possible” so that people with physical impairments can vote independently.¹⁰⁸ Similarly, in **Austria**¹⁰⁹ and **Slovenia**,¹¹⁰ electoral law requires that each municipality or voting district must have at least one accessible polling station.

In the final group of five EU Member States, the research indicates that there are no laws which explicitly require polling stations to be accessible, although polling stations can be covered by wider laws on the accessibility of public buildings.

Is there a legal duty to provide assistance for persons with disabilities during voting?

The provision of assistance with voting can enable persons with disabilities to vote in situations where it would otherwise not be possible for them to take part in elections. Article 29 specifies that this assistance should be provided at the request of the persons with a disability and by a person of their choice. The OHCHR highlighted in its thematic report on participation in political and public life by persons with disabilities that assistance should not, however, be seen as a substitute for measures to increase accessibility.¹¹¹ Steps to make polling stations, ballot papers and election information accessible are also required, as these may alleviate the need of some persons with disabilities for assistance.

In 15 EU Member States, **Croatia, Cyprus, the Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, Poland, Portugal, Slovakia, Slovenia, Sweden** and the **United Kingdom**, assistance in voting is available to persons with physical, visual and intellectual disabilities, subject to the authorisation of the election authorities. In most of these Member States, this assistance is based on an inability to read or write, independent of the reason. Such legislation often requires, however, that an

¹⁰⁵ United Kingdom (2006).

¹⁰⁶ Belgium, Ministerial Decree of 6 May 1980.

¹⁰⁷ Poland (2011b).

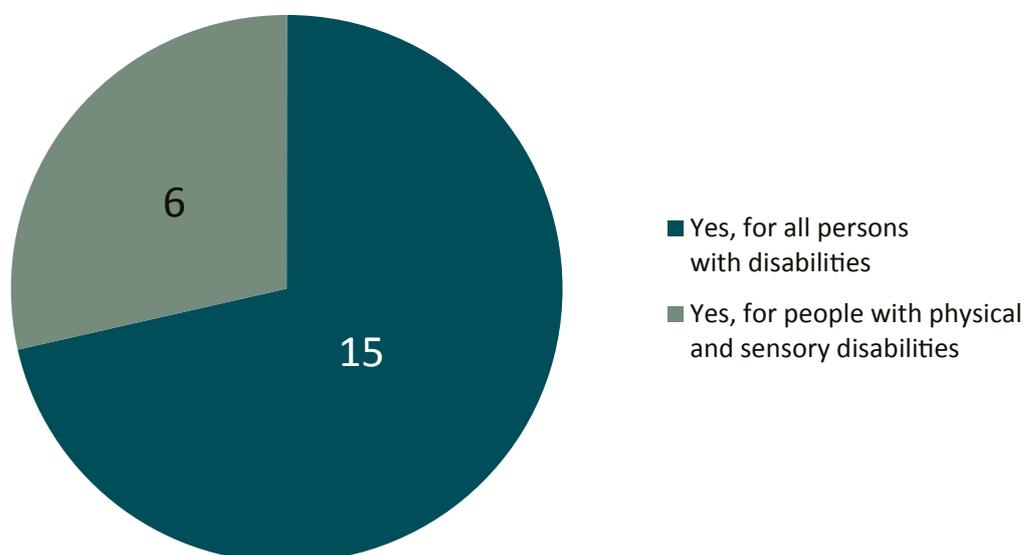
¹⁰⁸ Netherlands, Elections Act (Kieswet) 28 September 1989, last modified 13 December 2010, Art. J4.

¹⁰⁹ Austria, Federal Law of the National Council as amended in BGBl. I Nr. 161/1998.

¹¹⁰ Slovenia (2006).

¹¹¹ UN, OHCHR (2011).

Figure 23: Is there a legal duty to provide assistance in voting to persons with disabilities?



*Note: Those EU Member States for which no data were provided by ANED experts are excluded from this figure.
Source: ANED Lawson, 2014*

electoral officer be present in the voting booth with the voter and the assistant, which can raise concerns regarding the secrecy of voting for persons requiring assistance.¹¹²

In a second group of Member States, made up of **Austria, Greece, Latvia, Lithuania, Malta** and the **Netherlands**, electoral laws specify that assistance is only available to persons with physical or sensory impairments. In the **Netherlands**, the government and Electoral Council have expressed concern that the provision of assistance should not be extended to persons with intellectual disabilities due to the risk of voters being intimidated or influenced by assistants.¹¹³ Self-advocacy organisations have strongly criticised this position, calling for this risk to be addressed in a way that does not obstruct the right of persons with intellectual disabilities to vote.¹¹⁴

Where assistance is available, legislation generally allows for it to be provided by a person chosen by the person with a disability. In **Malta**, however, such assistance can only be provided by electoral officials, a rule which forms part of the basis for the reservation Malta entered to Article 29 when it ratified the CRPD (see indicator 2.1.1). Conversely, in **Croatia, Latvia, Lithuania,**

Poland and **Slovakia**, legislation specifically prohibits election officials from providing assistance.

Is training required by law for election authorities and officials on non-discrimination on the grounds of disability, accessibility and reasonable accommodation?

Election authorities and election officials in the EU Member States are responsible for the organisation and administration of elections, including elections to the European Parliament. It is therefore important that they are aware of issues related to non-discrimination on the grounds of disability, accessibility and reasonable accommodation.

One way to raise awareness is through training. Article 4 (1) (i) of the CRPD sets a duty on state parties to “promote the training of professionals and staff working with persons with disabilities in the rights recognised in [the CRPD] so as to better provide the assistance and services guaranteed by those rights”.

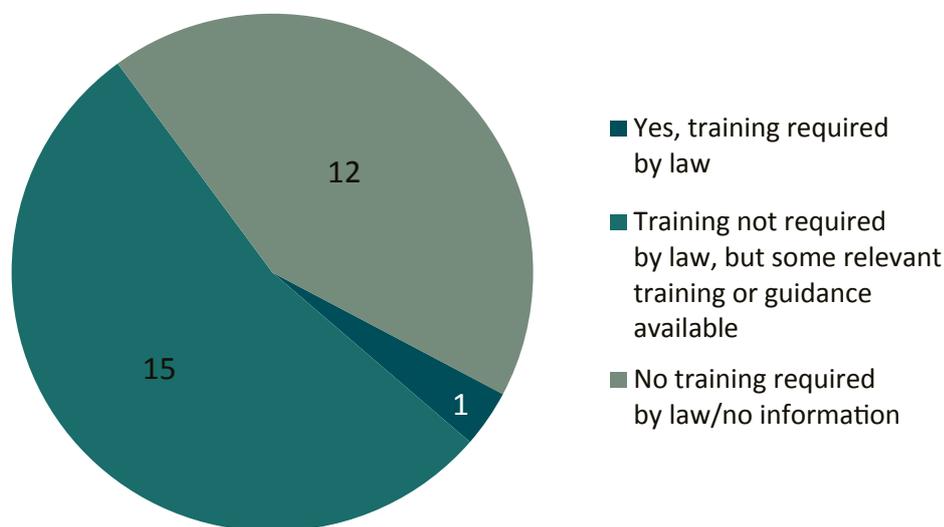
The FRA analysis shows that training of election authorities and election officials on non-discrimination on the grounds of disability, accessibility and reasonable accommodation is mandatory in only one EU Member

¹¹² Equal Opportunities Centre for Disabled Persons (2008), p. 11.

¹¹³ Netherlands, Electoral Council (2008).

¹¹⁴ Coalition for Inclusion (2013); Platform VG (2010).

Figure 24: Is training for election authorities and officials on non-discrimination on the grounds of disability, accessibility and reasonable accommodation required by law in EU Member States?



Source: FRA, 2014

State, **Croatia**. Croatian election law mandates the National Election Committee to conduct training for election officials, although it does not require election officials to undergo the training.¹¹⁵ During its training, the election committee gives instructions on how election officials should assist voters with disabilities. The election committee also publishes and distributes to election committees specific information on voting procedures for persons with disabilities.¹¹⁶

In all other Member States training for election authorities and officials on these issues is not required by law. However, in 15 EU Member States – **Belgium, Bulgaria, Cyprus, the Czech Republic, Finland, France, Germany, Greece, Ireland, Italy, Lithuania, Poland, Slovenia, Spain** and the **United Kingdom** – the research indicates that training material or specific instructions on how to ensure non-discrimination on the ground of disability and accessibility in voting procedures is provided. In **Finland**, the Ministry of Justice issues instructions to all election committees that include information on accessibility, while in **Lithuania** and **Slovenia** the central election authority provides training during election campaigns, where election rights, accessibility and necessary accommodations to exercise the right to vote for all, including persons with disabilities, are covered.

¹¹⁵ Croatia (2006).

¹¹⁶ Croatia, National Election Committee of the Republic of Croatia (2013a); and Croatia, National Election Committee of the Republic of Croatia (2013b).

Promising practice

Setting standards for election authorities and officials

The **United Kingdom's** Electoral Commission has published performance standards for returning officers, which require that election officials take into account the need to eliminate discrimination and consider accessibility when setting up polling stations, as well as “provide all materials in accessible formats that are easy for voters to use and understand”. The Electoral Commission has also published a handbook which states that all officials in charge of elections should provide training and briefing sessions for polling station staff in advance of elections. It specifies that “polling station staff must ensure that disabled voters are not offered a lower standard of service than other voters. Reasonable adjustments to practices and procedures must be made so that people with a range of disabilities are not disadvantaged in any way”.

For more information, see: Electoral Commission (2011) Performance Standards for Returning Officers in Great Britain, available at: www.electoralcommission.org.uk/_data/assets/pdf_file/0003/145371/Performance-Standards-for-ROs-FINAL-web.pdf and Electoral Commission (2010) Handbook for polling station staff: Supporting a UK Parliamentary election, available at: www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0009/55836/UKPGE-PSH-web-FINAL.pdf

2.4 Ensuring access to complaints mechanisms

Without access to efficient and effective justice, victims are not able to enforce their rights or put right the damage they have suffered.¹¹⁷ The right to access justice is set out in Article 13 of the CRPD, which requires state parties to ensure that persons with disabilities can access justice on an equal basis with others, including through the provision of reasonable accommodations.

Are all persons with disabilities legally able to access complaints mechanisms if they have not been able to exercise the right to political participation?

In the context of this report, access to justice means that individuals are able to bring a complaint to redress mechanisms if they feel they have been prevented from exercising the right to political participation. Different redress mechanisms may be able to receive complaints in this area, including non-judicial institutions such as national human rights institutions, equality bodies and ombuds-person organisations, as well as the civil judicial system.

This indicator explores whether all persons with disabilities are able, by law, to access redress mechanisms in cases where they have not been able to exercise the right to political participation. In particular, it looks at whether people who have been deprived of their legal capacity are entitled to access justice in such instances.

The results for this indicator in many cases mirror those for indicator 2.2.1 on whether persons deprived of legal capacity are able to vote and stand for election. Laws in

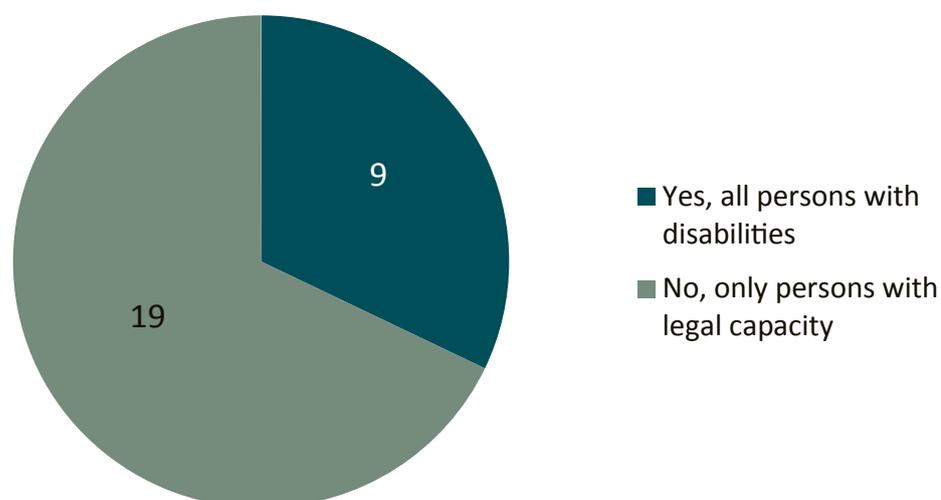
force in **Austria, Croatia, Cyprus, Finland, Germany, Italy, Latvia, Malta** and the **United Kingdom** provide that all persons with disabilities, including those who have been deprived of their legal capacity, have access to redress mechanisms in cases where they have not been able to exercise their right to political participation.

In the remaining two thirds (19) of Member States, persons with disabilities who have been deprived of their legal capacity do not have independent or direct access to redress mechanisms. This exclusion is manifested in two ways. In the first group of Member States, people who are prevented from voting because they have been deprived of their legal capacity are denied access to redress regarding problems experienced in the voting process. This is the case in **Denmark, Estonia, Greece, Ireland, Lithuania, Poland, Slovenia** and **Slovakia**. In these situations, the law requires that a person deprived of his or her legal capacity first challenge this decision. Only once his or her legal capacity is restored, can the person seek redress for being deprived of the right to vote.

Legislation in the second group of Member States – **Bulgaria, France, Hungary, Luxembourg, the Netherlands** and **Sweden** – requires that a guardian makes a complaint on behalf of a person deprived of legal capacity who is seeking redress. In **France**, for example, the law stipulates that even if persons deprived of legal capacity are allowed to vote they cannot seek redress themselves: their guardian needs to make the complaint on their behalf.¹¹⁸

In many cases, being able to access justice depends on whether the case falls within the mandate of the redress mechanism approached. In **Sweden** persons with disabilities, or their guardian if they have been deprived of

Figure 25: Are all persons with disabilities legally able to access complaints mechanisms if they have not been able to exercise the right to political participation?



Source: FRA, 2014

¹¹⁷ FRA (2011c).

¹¹⁸ France, Civil Code.

legal capacity, can only make a complaint to the Equality Ombudsman (*Diskrimineringsombudsmannen*) if the issue is framed in discrimination terms, as the Ombudsman is only competent to act in areas covered by the Discrimination Act (*Diskrimineringslagen*).¹¹⁹ Inadequate accessibility, for example, is not included in the Discrimination Act, so a case could not be brought on this basis.

Conclusions

The indicators in this chapter measure whether the structures exist to realise the right to political participation of persons with disabilities. Apart from Finland, Ireland and the Netherlands, which are preparing ratification, all EU Member States and the EU itself have ratified the CRPD. The legal frameworks in the majority of Member States do not, however, yet reflect all the obligations arising from the CRPD.

Legal restrictions on the right to vote of persons with disabilities persist and perpetuate exclusion,

particularly in the form of the automatic denial of the right to vote of persons deprived of legal capacity. Furthermore, procedures and mechanisms intended to promote political participation, such as providing assistance in voting or alternative ways of voting or the possibility to bring complaints, are not always accessible, potentially reinforcing inequality in political participation.

Although many EU Member States have elaborated accessibility rules covering public buildings, polling stations, the internet and broadcast media, they often contain gaps. Rules concerning media accessibility frequently only apply to public media providers, or permit exclusions based on limited resources. Similarly, rules for building accessibility sometimes only apply to new buildings, while in many Member States only a certain proportion of polling stations must be made accessible. The development of EU-wide accessibility standards is ongoing and would allow for better comparability of data across Member States.

Links between indicators

The structure indicators presented in this chapter are linked to process and outcome indicators in Chapters 3 and 4. If there is a legal requirement of accessible polling stations (2.3.4), the provision needs to be turned into a policy on how what constitutes accessibility (3.1.3), and assessed against the accessibility of polling stations in practice (4.2.1). Similarly, the indicator on limitations on the right to vote (2.2.1) is not only tied to the legal ability to access to redress mechanisms (2.4.1) but also to the accessibility of information about how to access these mechanisms (3.2.1), and the number of cases considered by national courts and non-judicial bodies (3.2.2 and 3.2.3).

¹¹⁹ Sweden (2008).



3

Process indicators: turning commitments into reality

“Process indicators measure duty bearers’ ongoing efforts to transform their human rights commitments into the desired results. Unlike with structural indicators, this involves indicators that continuously assess the policies and specific measures taken by the duty bearer to implement its commitments on the ground.”

UN OHCHR (2012), Human Rights Indicators: A guide to Measurement and Implementation (HR/PUB/12/5), p. 36

Process indicators that help to assess a state’s efforts to make its legal responsibilities into an everyday reality for citizens are the second component of OHCHR’s typology for fundamental rights monitoring. These indicators sit between structure indicators, which look at

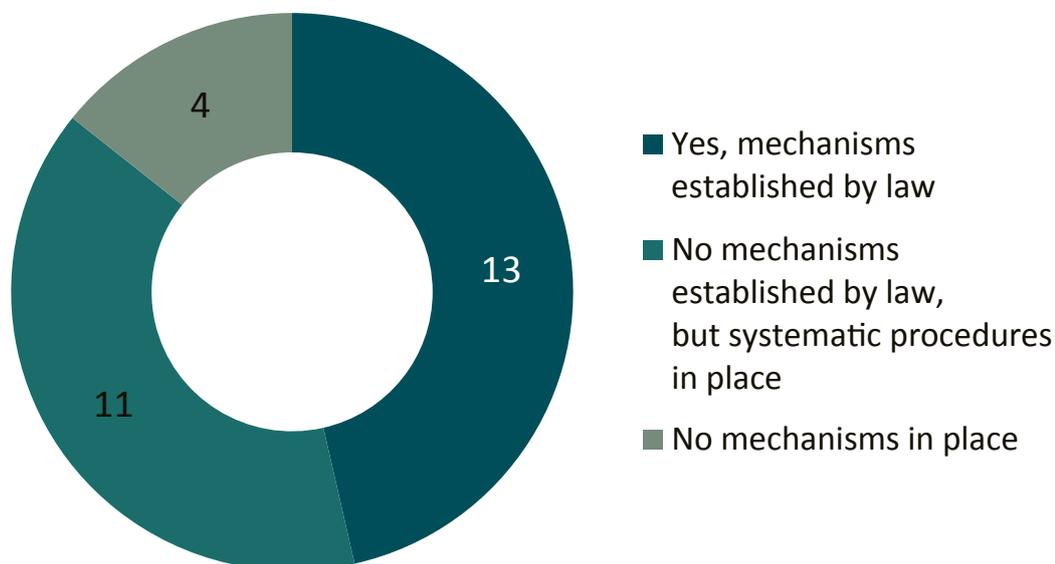
the legal and policy framework for fundamental rights, and outcome indicators, which measure the attainment of rights on the ground. In this way they act as a “monitored intermediate” through which to assess the accountability of Member States for their fundamental rights obligations.

The process indicators presented here reflect different types of such measures to capture some of the key steps that have been taken by EU Member States to guarantee and facilitate the right to political participation of persons with disabilities. As such, they are inherently linked to the concept of progressive realisation of fundamental rights.

Table 3: Overview of thematic links between process indicators

Theme	Process indicators
Lifting legal and administrative barriers to political participation	3.2.1. Accessibility of information about how and where to complain 3.2.2. Cases considered by judicial complaints mechanisms 3.2.3. Cases considered by non-judicial complaints mechanisms 3.2.4. Cases considered by international complaints mechanisms
Increasing awareness of the right to political participation of persons with disabilities	3.1.1. DPO involvement 3.1.2. Commitment to provide accessible manifestos 3.1.3. Guidelines on accessibility of polling stations
Making voting procedures, facilities and election materials more accessible	3.1.1. DPO involvement 3.1.2. Commitment to provide accessible manifestos 3.1.3. Guidelines on accessibility of polling stations
Expanding opportunities for participation in political life	3.2.1. Accessibility of information about how and where to complain 3.1.1. DPO involvement

Figure 26: Do EU Member States have mechanisms to ensure consultation and involvement of disabled persons' organisations in the development of laws and policies which affect them?



Source: FRA, 2014

3.1 Involving persons with disabilities in the political process

Article 4 (3) is a cross-cutting provision of the CRPD which makes clear that persons with disabilities must be “closely consulted” and “actively involve[d]” in the process of turning state parties’ fundamental rights obligations into a reality for people on the ground. These indicators consider some of the main ways in which persons with disabilities are involved in the political process.

Are disabled persons’ organisations consulted and involved in the development of laws and policies?

The involvement of persons with disabilities and their representative organisations in the decision-making which affects them lies at the heart of the CRPD, reflecting the slogan of the disability movement “nothing about us without us”. This indicator captures whether procedures exist to implement one aspect of Article 4 (3), specifically whether DPOs are involved in the development of laws and policies which concern them. The data focus on the involvement of DPOs at

the national level. Such consultation is important at all levels of governance, however, including regional, local and municipal administrations, as it is frequently at the local level that key decisions affecting the lives of persons with disabilities are made.

The analysis indicates that in nearly half (13) of EU Member States, DPOs’ involvement in the development of laws and policies is provided for by law. This involvement takes several different forms. In **Sweden**, the consultation of DPOs in the development of law and policy is stipulated by the constitution. In **Austria, Cyprus, Malta** and **Spain** it is provided for in relevant disability-focused legislation. Article 9 of the **Austrian** Disabled Persons Act, for example, establishes a Federal Disability Board which includes seven representatives of “organised disabled persons and organised war invalids”. This body is consulted during the process of drafting laws and policy making.¹²⁰ The law on the consultation process between the Government and other Services for issues concerning Persons with Disabilities in **Cyprus** defines the Confederation of Organisations of the Disabled as the social partner of the state and provides that the government consults with the confederation on decisions that directly or indirectly affect persons

¹²⁰ Austria, Federal Act from May 17 1990.

with disabilities. The confederation is made up of nine DPOs.¹²¹

In **Germany, Hungary, Italy, Poland** and **Slovakia** the duty to consult with DPOs is provided through general provisions that require concerned parties and/or the public to be consulted in law and policy-making processes. Federal ministries in **Germany** must consult concerned non-governmental organisations in law-making procedures or processes to develop political strategies.¹²² Similarly, **Italian** law establishes that non-governmental organisations (NGOs) active in the field of protection of the rights of persons with disabilities should be involved in the formulation and implementation of policies with regional consultative bodies and a national consultative assembly coordinated by the Ministry for Social Affairs.¹²³

In the remaining 15 EU Member States, the analysis indicates that consultation and involvement of DPOs in the development of laws and policies is not required by law. In 11 of these Member States, **Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Finland, Ireland, Latvia, Luxembourg** and the **United Kingdom**, however, established mechanisms to ensure systematic consultation with DPOs are in place. The governments of **Belgium, Bulgaria, Czech Republic, Luxembourg** and **Latvia** have established consultative bodies of people with disabilities which include representatives from DPOs. DPOs are, for example, part of the the **Czech Republic's** Government Board for People with Disabilities.¹²⁴

Other governments have instituted non-binding guidance for governments regarding involving civil society. For example, the Good Engagement Code of Practice (*Hea kaasamise tava*) in **Estonia** establishes that government authorities must include interest groups who will be affected by a planned law in the drafting process. The draft law is sent to the affected interest groups, who may comment on it.

The remaining group of Member States, **Greece, Lithuania, the Netherlands** and **Romania**, have neither legislation establishing mechanisms nor systematic practices for consultation with DPOs in the development of laws and policies. It is important to note that this does not mean that DPOs are not involved in practice.

¹²¹ Cyprus (2006).

¹²² Germany, Common rules of procedure for federal ministries.

¹²³ Italy, Law 5 February 1992 No. 104.

¹²⁴ Czech Republic (2011).

Promising practice

Involving DPOs in decision-making

The National Council on Disability in **Spain** brings together representatives of various government ministries and DPOs representing persons with different types of impairments to ensure collaboration in policy development. The Royal Decree setting up the council states that, apart from relevant civil servants and authorities from different ministries, the members of this council are: "Sixteen members representing the most representative non-profit associations on a national level whose members are the most representative organisations with regard to the different types of disabilities."

One of the council's tasks is: "To issue mandatory (though non-binding) opinions and reports on legislative proposals and other initiatives related to the Council's field of activity that are submitted for its consideration and in particular regarding the development of legislation on equal opportunities, non-discrimination and universal accessibility." It can also present initiatives and make recommendations on action plans or programmes.

For more information, see: Spain, Royal Decree 1855/2009, of 4 December, regulating the National Council on Disability (Real Decreto 1855/2009, de 4 de diciembre, por el que se regula el Consejo Nacional de la Discapacidad), available in Spanish at: www.boe.es/buscar/pdf/2009/BOE-A-2009-20890-consolidado.pdf

Is there a commitment by political parties participating in elections to the European Parliament to provide information in accessible formats?

Political parties are distinct from the state and, as such, the provisions of the CRPD are not directly applicable. However, they may fall under the broader responsibility of state parties to the CRPD to create a legal environment which promotes conformity with the convention. Indeed, Article 29 calls on states "to promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs [...] on an equal basis with others", which would encompass accessible campaign materials. In addition, the European Commission's proposal for a regulation on the statute and funding of European political parties and European political foundations sets out in Article 3 that to apply to register its statutes as a European political party with the European Parliament, a political alliance "must observe, in particular in its programme and in its activities, and through those of its members, the values on which the European Union is founded, namely

respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights".¹²⁵

This indicator looks at whether political parties participating in elections to the European Parliament have committed themselves to providing their campaign material in accessible formats, for example easy to read or formats accessible for persons with sensory impairments. The results reflect the particular characteristics of the European Parliament elections. Political groups in the European Parliament do not campaign as such: national political parties campaign under the coordination of their pan-European umbrella organisations (or 'Euro-parties').

There are 13 such parties identified in the official European Parliament list of grants to political parties at European level.¹²⁶ The FRA contacted each party in January 2014 to ask whether their manifesto, charter, website and information on candidates would be provided in accessible formats; eight responded. Of the eight that responded, half – including the Party of European Socialists, the European Green Party, the European Free Alliance, the European Democratic Party and the European Christian Political Movement – indicated that they were still in the process of preparing their 2014 campaign material.

The analysis indicates that commitments by the political groups in the European Parliament to provide information in formats accessible for persons with disabilities have been closely linked to DPO campaigns. In June 2013, a meeting between the European Disability Forum and the leaders of the political groups resulted in a declaration in which the European People's Party (EPP), Socialists and Democrats (S&D), Alliance of Liberals and Democrats for Europe (ALDE), Greens/European Free Alliance and the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL) groups pledged to "make every effort to ensure the accessibility of their documents and information, with particular emphasis on their website. We call on electoral authorities in the Member States to remove all obstacles to the accessibility of EP elections".¹²⁷

Similarly, the European Union of the Deaf organised a campaign in November 2013 for more accessible political parties' websites for deaf people. Thirty-two Members of the European Parliament from the EPP, S&D, ALDE, GUE/NGL and Non-Inscrits groups signed the manifesto.¹²⁸

125 European Commission (2012b).

126 See European Parliament (2013).

127 See European Disability Forum (2013).

128 For more information on this campaign, see European Union of the Deaf (EUD), Elections 2014 Campaign, http://eud.eu/Which_Member_of_the_European_Parliament-i-670.html.

The FRA data collection did not provide, however, specific detailed information regarding the information the parties intended to provide in accessible formats for the 2014 European Parliament elections or which alternative formats they would employ.

Are there guidelines on how to make polling stations accessible?

Guidelines on how to make polling stations accessible and what constitutes an accessible polling station can help to turn legal commitments regarding polling station accessibility (see indicator 2.3.4) into positive outcomes for persons with disabilities on the ground (see indicator 4.2.1). These guidelines can cover different aspects of polling stations, including the accessibility of the building and voting booths, or the provision of assistive devices. As such, they will often be technical in nature, with detailed specifications regarding the width and height of voting booths, for example.

The analysis below focuses on whether detailed guidance on accessibility, which covers at a minimum physical accessibility, is available in the EU Member States. This reflects the focus of many national level guidelines on the accessibility needs of persons with physical impairments.

Detailed national guidance on ensuring the physical accessibility of polling stations is available in over half (17) of EU Member States. In **Belgium, Denmark**, and the **Netherlands**, the guidance is issued by government departments. In Denmark, guidance is issued to the municipal authorities responsible for organising elections ahead of each vote, and includes a requirement that within each polling station there should be at least one voting booth with room for three people, for example a voter with disabilities and two election officials, or one election official and a personal assistant.¹²⁹ In other Member States, the guidance is provided by election authorities or national human rights bodies. The **Portuguese** National Electoral Commission, for instance, issued a recommendation and guidance to municipal election authorities on the accessibility of polling stations following a complaint by a national disability organisation.¹³⁰

DPOs have often played an active role in producing accessibility guidance for polling stations. In **Latvia**, collaboration between the Central Elections Commission and two NGOs has resulted in the publication of booklets containing guides to accessibility and non-discrimination for disabled people.¹³¹

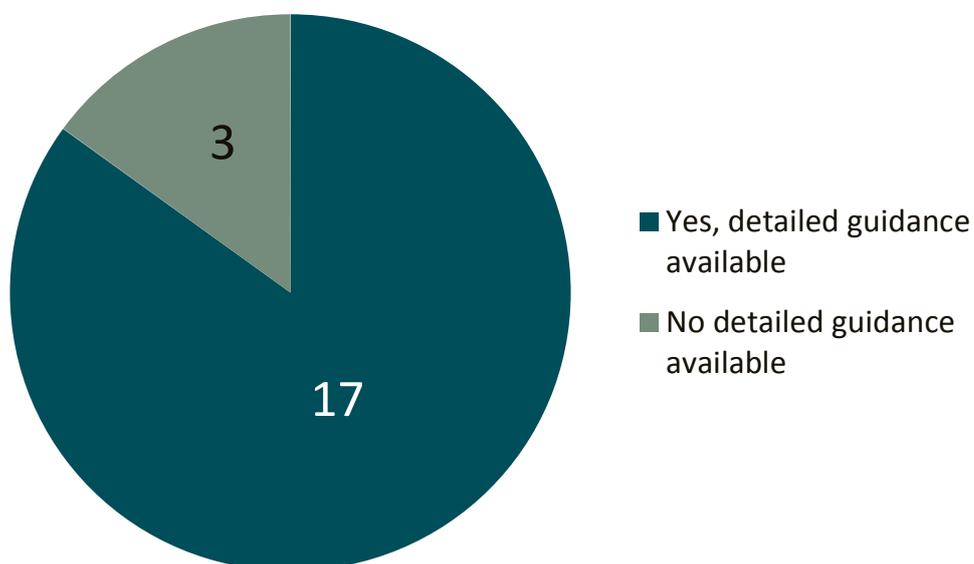
129 Denmark (2013).

130 Portugal, National Elections Commission (2009).

131 The booklets produced with Apeiron and the Latvian Blind Society are available at: <http://cvk.lv/pub/public/29670.html>.



Figure 27: Do EU Member States provide guidelines on how to make polling stations accessible?



*Note: Those EU Member States for which no data were provided by ANED experts are excluded from this figure.
Source: ANED Lawson, 2014*

In three EU Member States, **Cyprus**, the **Czech Republic** and **Hungary**, however, the research found no detailed guidance on the accessibility of polling stations. For example, although guidance is issued to election authorities by the Central Election Service of the **Cypriot** Ministry of Interior, it contains no details on accessibility.¹³²

Promising practice

Developing guidelines for polling station accessibility

Ahead of the 2012 general elections, the **Dutch** Ministry of Interior developed a checklist outlining the criteria polling stations must fulfil to be accessible for persons with disabilities. The checklist was drawn up by a consultancy specialising in auditing the accessibility of buildings, taking into account the experiences of persons with disabilities. The checklist, which also provided practical advice on how to increase accessibility, was distributed to all municipalities in advance of the election, noting that it would be used for evaluating the accessibility of voting booths during the election.

For more information, see: www.vng.nl/files/vng/vng/Documenten/actueel/beleidsvelden/bestuur/2012/20120622_checklist_toegankelijk_stemlokalen.pdf

3.2 Creating the opportunity to make complaints

One important way to challenge states in their implementation of fundamental rights is through the opportunity to make complaints. Complaints can help to identify obstacles to the achievement of rights as well as highlighting their scope and applicability.

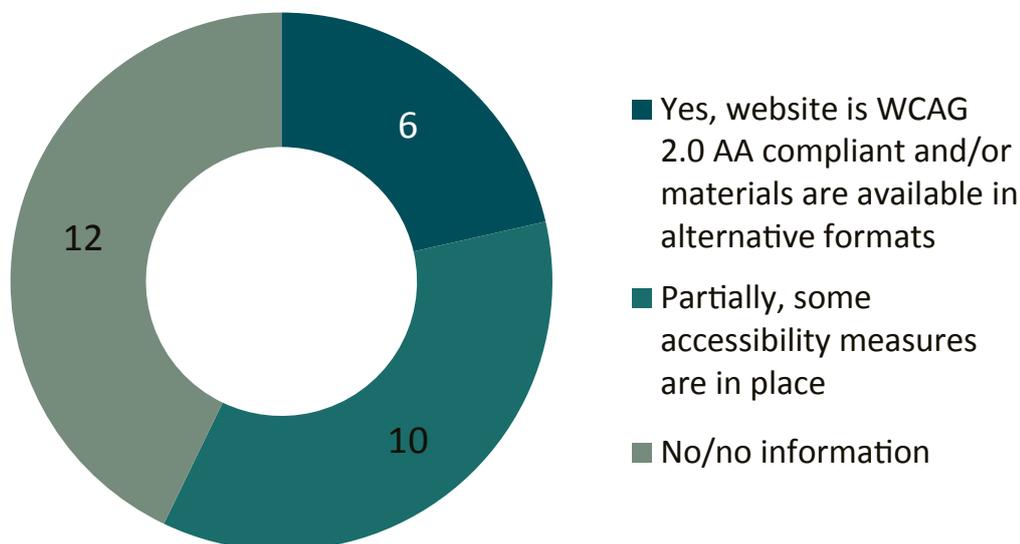
Is information accessible on how to complain about problems with exercising the right to political participation?

A lack of information in accessible formats can both discourage people from making a complaint in the first place and operate as an obstacle to progressing through the complaints process.¹³³ Making information about complaints mechanisms accessible for persons includes developing easy-to-read material, large print versions and audio-visual material such as informa-

¹³² Cyprus, Central Election Service of the Ministry of Interior.

¹³³ For more information, see FRA (2009); and FRA (2012b).

Figure 28: Is information on complaints mechanisms regarding political participation accessible to persons with disabilities?



Source: FRA, 2014

tion in audio format or videos with subtitles or sign language. However, making information accessible must be accompanied by steps to make it available to persons with disabilities, for example by having such information clearly marked at polling stations and well sign-posted on relevant internet sites.

With much information on how to complain about alleged rights violations made available online, it is particularly important that websites are accessible. This indicator looks at whether information about how and where to complain in the event of problems exercising the right to political participation is provided in alternative formats and if the relevant website meets WCAG 2.0 AA standards.¹³⁴ As testing the accessibility of relevant websites is beyond the scope of this report, the data below are based on websites' self-assessment of their accessibility.

The analysis shows that in six EU Member States – the **Czech Republic, Lithuania, Malta, Poland, Spain** and **Sweden** – information about how and where to complain about voting rights is provided on a website that declares it meets WCAG 2.0 AA standards or in other accessible formats. For example, the website of the **Czech** Ministry of Interior, which contains information on how to make complaints regarding elections, states that it is compatible with WCAG 2.0 AA standards.¹³⁵ In some cases, such as the website of the National Commis-

sion of Persons with Disability in **Malta**, the information provided is on complaints in general and not specifically regarding political participation.¹³⁶

A second group of EU Member States, **Austria, Belgium, Bulgaria, Finland, Hungary, Latvia, the Netherlands, Portugal, Slovenia** and the **United Kingdom**, provide information on complaint procedures regarding political participation in a format that is partially accessible. This category is triggered if the website does not state that it complies with accessibility standards such as the WCAG 2.0 or if material in alternate formats only reflects the needs of some persons with disabilities. In **Finland**, the Parliamentary Ombudsman's website provides information on redress in Finnish and Swedish Sign Language¹³⁷ and the Chancellor of Justice's website provides information in Finnish Sign Language.¹³⁸

In nearly half of EU Member States, the analysis either indicated that information on how to complain about problems exercising the right to political participation is not accessible to persons with disabilities, or could not identify information about how to make such complaints. For example, the website of the Central Election

¹³⁴ W3C (2008).

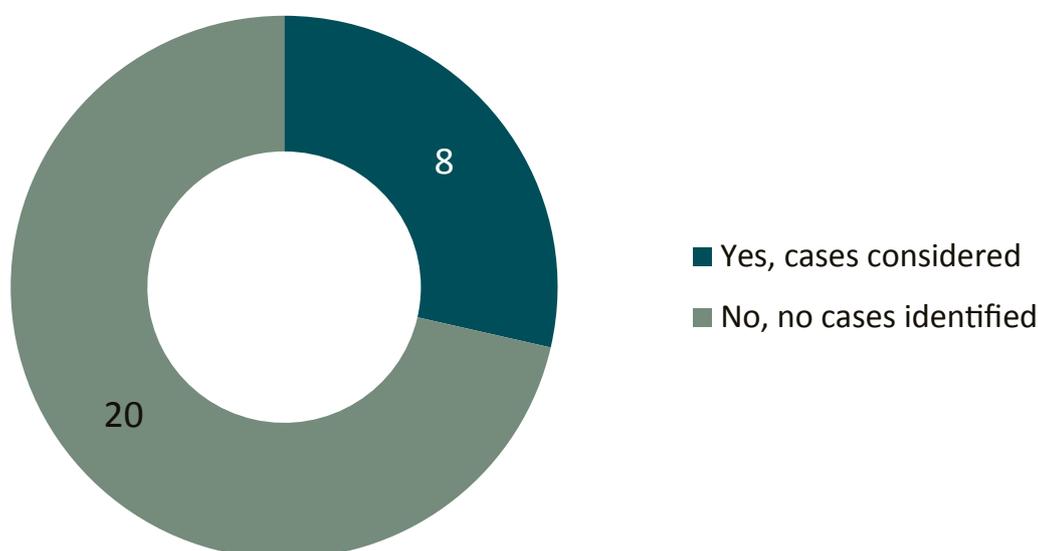
¹³⁵ Czech Republic, Ministry of Interior (2008).

¹³⁶ Malta, House of Representatives (2000).

¹³⁷ Finland, The Parliamentary Ombudsman (Eduskunnan oikeusasiamies/Riksdagens justitieombudman), available at: www.oikeusasiamies.fi/Resource.php/ea/viittomakieli/kvideot.htm.

¹³⁸ Finland, The Chancellor of Justice website, available at (accessed 9.8.2013): www.okv.fi/viittomakieli/.

Figure 29: Have national courts considered cases related to the right to political participation of persons with disabilities?



Source: FRA, 2014

Service in **Cyprus** does not include guidelines for submitting a complaint.¹³⁹

Promising practice

Increasing the accessibility of complaints procedures

The **Spanish** Ministry of the Interior's website has a special section on Accessibility and Electoral Processes which explains the complaints procedure. In a self-assessment, website operators said the website meets rating AA according to the Spanish standards for web accessibility and WCAG 1.0.

For more information, see: www.infoelectoral.mir.es/Accessibilidad_procesos_electorales/Quejas_Sugerencias.htm

Have national courts considered cases related to the right to political participation of persons with disabilities?

Assessing whether alleged violations of a particular right have been considered by judicial complaints mechanisms can give an insight into whether systematic violations are occurring, the accessibility of judicial redress mechanisms and the current relevance or profile of the issue. This indicator establishes whether

national judicial redress mechanisms addressed cases concerning an alleged violation of the right to political participation of a person with a disability over the period 2000–2013. The scope of this report means that the cases identified were heard by higher-level courts. There may be other cases considered by lower or regional courts that are not captured here. More information on the cases identified by this research can be found in Annex 3.

The existence of cases in a country does not imply that the situation regarding the political participation of persons with disabilities is less favourable than in a country with no identified cases. It may rather reflect greater awareness of rights among persons with disabilities, for example, or more accessible judicial processes. These data should be read in conjunction with indicator 3.2.4 which looks at cases before non-judicial redress mechanisms.

The analysis identified that cases concerning the right to political participation of persons with disabilities had been considered by judicial redress mechanisms in a quarter (8) of EU Member States. Of the twelve cases identified; five focused on the voting rights of persons deprived of their legal capacity. In 2011, for example, the Constitutional Court of the **Czech Republic** ruled that when deciding on full or partial deprivation of the legal capacity of an individual, courts must consider separately whether the individual is capable of understanding the meaning, purpose and consequences of

¹³⁹ Cyprus, Central Election Service of the Ministry of Interior.

voting and the judgment of depriving an individual of the right to vote must be reasoned.¹⁴⁰ A Council of State Administrative division in the **Netherlands** concluded in a 2003 case, that the exclusion of persons deprived of their legal capacity from the right to vote could, in specific cases, be an infringement of the International Covenant on Civil and Political Rights.¹⁴¹

The remaining cases predominately concerned questions of the accessibility of polling stations and voting materials. In **Slovenia**, the Constitutional Court in 2010 rejected a complaint challenging the requirement to submit an application to use an accessible polling station three days before elections as unfounded.¹⁴² In his application, the claimant had specifically mentioned the principle of non-discrimination on the grounds of disability and the right to political participation on an equal basis with others outlined in the CRPD. In addition, a **Polish** Supreme Court decision in 2000 regarding accessibility of polling stations at the Polish consulate in Rome found that not providing access to polling stations amounted to a violation of the Act of Presidential Election.¹⁴³

Several judgments specifically addressed accessibility for persons with visual impairments. In **Spain**, the High Court of Catalonia ruled in 2007 that although the Catalan region's law on the general electoral system did not allow blind people to vote using Braille, the law was not unconstitutional, because such a change would require complex technical solutions.¹⁴⁴ The law on the general electoral system was amended shortly afterwards to introduce a specific voting procedure for persons with visual impairments.¹⁴⁵ Before the 2008 General Election in **Malta**, the Society of the Blind opened a case regarding the right of persons with visual impairments to vote in secret, arguing that the lack of privacy was humiliating and in breach of Malta's equality legislation.¹⁴⁶ Although the court ruled that it did not have jurisdiction in the case, the General Elections Act was subsequently amended to include an obligation on the Electoral Commission to produce templates in Braille and facilitate the use of playback listening devices.¹⁴⁷

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

Non-judicial complaints mechanisms such as National Human Rights Institutions (NHRIs), Equality Bodies

and Ombudsman institutions provide an important avenue for seeking redress in cases of alleged violations of fundamental rights. In some cases they may be more accessible than judicial mechanisms, with bringing complaints less costly for the complainant and the proceedings faster than the court system. This indicator identifies those Member States where national non-judicial redress mechanisms have addressed an alleged violation of the political participation rights of people with disabilities over the period 2000–2013. An overview of the cases identified is presented in Annex 3.

The ability of such organisations to protect human rights by receiving, investigating and resolving complaints rests on both whether they are competent to receive complaints and whether a particular issue is covered by their mandate. Equality bodies, for example, focus on issues of discrimination so to be admissible a case related to political participation of persons with disabilities would need to be based on discrimination on the grounds of disability.

As with the previous indicator, evidence of complaints may indicate barriers to the political process but also demonstrates awareness that such barriers need to be challenged. Conversely, an absence of complaints is unlikely to indicate an absence of barriers to participation. As the CRPD raises awareness of the rights of persons with disabilities and national human rights bodies are strengthened in the area of disability, the number of cases may rise.

The analysis identified 13 cases relating to the right to political participation of persons with disabilities, considered by non-judicial redress mechanisms across 10 EU Member States. These cases primarily related to accessibility, in particular for persons with sensory impairments. Notably, there was considerable overlap with those Member States where cases had been brought to judicial redress mechanisms, suggesting a greater level of awareness of the right to political participation of persons with disabilities in these countries.

Cases related to accessibility of polling stations were identified in **Austria, Bulgaria, Hungary, Slovenia** and **Sweden**. Two cases concerning barriers to entering polling stations were filed with regional offices of the Federal Social Welfare Office in relation to the 2008 parliamentary and the 2010 presidential elections in **Austria**.¹⁴⁸ In both cases the parties reached agreements through conciliation procedures. The Equality Ombudsman in **Sweden** received four complaints about polling stations that were inaccessible for persons using wheelchairs during the 2009 European Parliament elections. The investigation confirmed that inaccessible premises were used in four municipalities and argued that, based on the results of the investigation and in light of the

140 Czech Republic, Constitutional Court of the Czech Republic (2010).

141 Netherlands, Council of State (2003).

142 Slovenia, Constitutional Court (2010).

143 Poland, Supreme Court (2000).

144 Spain, High Court of Catalonia (2007).

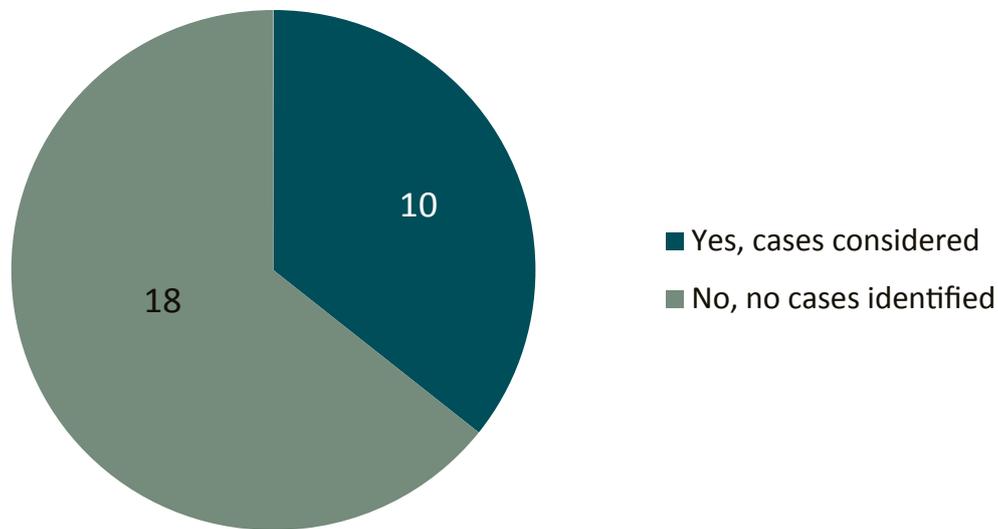
145 Spain (2007b).

146 Malta, First Hall Civil Court (2006).

147 Malta, Act XXI of 28 September 2007.

148 Wegscheider, A. (2013), pp. 216–234.

Figure 30: Have non-judicial complaints mechanisms considered cases related to the right to political participation of persons with disabilities?



Source: FRA, 2014

requirements of the Election Act and the CRPD, the cases should be forwarded to the relevant authorities.¹⁴⁹

In **Malta**, **Slovenia** and **Spain**, this research found cases linked to the accessibility of information regarding elections, specifically for persons with visual and hearing impairments. In 2013, the Deaf Persons Association filed a complaint with the National Commission on Persons with Disability in **Malta** about the lack of Maltese Sign Language interpretation on national television during an election broadcast. As a result of the complaint, the Broadcasting Authority included Maltese Sign Language interpretation in its broadcasts on the elections.¹⁵⁰ Following the 2011 parliamentary elections in **Slovenia**, the Advocate of the Principle of Equality received a complaint concerning the lack of information provided by the National Electoral Commission on how persons with disabilities could exercise their right to vote. Following an investigation, the advocate produced an opinion stating that the information provided by the commission was not accessible to people with disabilities, which amounted to indirect discrimination on the ground of disability.¹⁵¹

In addition to investigating specific cases, bodies with a mandate to promote and protect fundamental rights may issue recommendations to public authorities on particular rights issues. In 2012, the Ombudsman for Persons with Disability in **Croatia** sent a written opinion and recommendations to the Ministry

¹⁴⁹ Sweden, The Equality Ombudsman (2009).

¹⁵⁰ Malta, The Ombudsman's Office (2013).

¹⁵¹ Slovenia, Advocate of the Principle of Equality (2013).

Promising practice

Turning complaints into recommendations

The Public Defender of Rights in **France**, following a complaint regarding the right of persons with visual impairments to vote independently, issued a decision in 2012 including wide-ranging recommendations to improve the accessibility of elections. The recommendations were divided into five parts:

- information ahead of the election, including designing a guide to help candidates make their campaign material accessible;
- polling stations, including making information outside easy to read and clearly marking the way to the voting booth;
- ballot papers and the voting booth, including large print ballot papers;
- electronic voting, including technical standards regarding accessibility of electronic voting devices and training on how to use electronic voting machines;
- awareness-raising for candidates, presiding officers, and persons with disabilities and their supporters.

For more information, see: France, Defender of Rights (Défenseur des droits, DDD), Decision No. MLD - 2012-2, 12 January 2012, available at: www.defenseurdesdroits.fr/sites/default/files/upload/sinformer_sur_le_ddd/decision_defenseur_des_droits_mld-2012-2.pdf

of Public Administration regarding election legislation, including the importance of ensuring the accessibility of polling stations, support for persons with a disability and guaranteeing voting rights for persons deprived of their legal capacity.¹⁵² From 2000 to 2010 the Human Rights Defender in **Poland** attempted to increase the respect for the rights of people with disabilities to political participation by sending letters to various public authorities, including the parliamentary speaker and the National Election Council.¹⁵³

Have international judicial and non-judicial complaints bodies considered cases related to the right to political participation of persons with disabilities?

As at the national level, consideration of a particular rights issue by international judicial and non-judicial complaints mechanisms can play an important role in interpreting the scope and application of rights as well as highlighting problems with implementation. For the EU Member States, the key international judicial complaints mechanisms are, at the EU level, the Court of Justice of the European Union (CJEU) and at the Council of Europe level, the ECtHR.

The case law of the ECtHR has been an important instrument driving change in EU Member State national legislation and compliance with human rights standards. Until now, however, the only instance of an ECtHR judgment relating to the right to political participation of persons with disabilities was in the *Alajos Kiss v. Hungary* case. A brief summary is presented below and further analysis can be found in the FRA report *The right to political participation of persons with mental health problems and persons with intellectual disabilities*.

Regarding non-judicial complaints mechanisms, individuals in Member States that have ratified the Optional Protocol to the CRPD – 21, as of March 2014 – can also bring individual communications to the CPRD Committee. The CPRD Committee has so far considered four such communications, of which one concerned Article 29 of the convention. While the *Kiss* case illustrated the ECtHR's position that the right to vote can be restricted on the basis of an "individualised judicial evaluation", the CRPD Committee's views in the communication of *Zsolt Bujdosó and five others* reinforce the position it set out in the Concluding Observations that Article 29 "does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities".¹⁵⁴

European Court of Human Rights

***Alajos Kiss v. Hungary*, No. 38832/06, judgment of 20 May 2010**

Alajos Kiss has a psychosocial disability and was placed under partial guardianship. He complained under Article 3 of Protocol 1 (right to free elections) to the European Convention on Human Rights (ECHR), that he automatically lost his right to vote as a result of being placed under partial guardianship. The ECtHR found a violation of Article 3 of Protocol No. 1 to the ECHR.

In assessing the proportionality of the measure, the ECtHR noted that the Hungarian legislature did not seek "to weigh the competing interests or to assess the proportionality of the restriction" (paragraph 41). The Court further stated that "if a restriction on fundamental rights applies to a particularly vulnerable group in society, who have suffered considerable discrimination in the past, such as the mentally disabled, then the State's margin of appreciation is substantially narrower and it must have very weighty reasons for the restrictions in question". (paragraph 42) The Court concluded that "an indiscriminate removal of voting rights, without an individualised judicial evaluation and solely based on a mental disability necessitating partial guardianship, cannot be considered compatible with the legitimate grounds for restricting the right to vote". (paragraph 44)

Following this judgment Hungary changed its constitution in 2012, and the current Fundamental Law requires that judges base their decision on the right to vote for persons deprived of legal capacity based on an individual assessment.

Source: ECtHR, *Alajos Kiss v. Hungary*, No. 38832/06

¹⁵² Some of the information supplied in this chapter is based on in-house FRA indicator research.

¹⁵³ See, for example, Poland (2000); and Poland (2006).

¹⁵⁴ United Nations, Committee on the Rights of Persons with Disabilities (2011a), para. 9.4.

UN Committee on the Rights of Persons with Disabilities

Zsolt Bujdosó and five others v. Hungary

The communication was submitted by six people with intellectual disabilities, who were placed under partial or plenary guardianship by judicial decisions. As an automatic consequence of their placement under guardianship, they were removed from the electoral register, pursuant to Article 70, paragraph 5, of the Constitution of Hungary that was applicable at the time. Due to this restriction on their legal capacity, the six people were prevented from participating in the 2010 parliamentary and municipal elections. The decisions to place them under guardianship did not take into consideration their ability or desire to vote, as they were automatically prevented from exercising their right to vote by the constitutional provision, regardless of the nature of their disability, their individual abilities or the scope of the guardianship.

The Committee found that Hungary had failed to comply with its obligations under Article 29 of the CRPD (the right to political participation), read alone and in conjunction with Article 12 (the right to equality before the law). The Committee also made several recommendations to the state party, including that the deletion of the names of the six people who submitted the communication from the electoral register be remedied with compensation for moral damages and the legal costs incurred by filing the communication, as well as several measures to prevent similar violations in the future by introducing legislative as well as procedural changes.

Source: United Nations, Committee on the Rights of Persons with Disabilities (2011), Communication No. 4/2011, CRPD/C/10/D/4/2011

No individual complaint before the UN Human Rights Committee alleging a violation of Article 25 of the International Covenant on Civil and Political Rights (ICCPR) (participation in public affairs and the right to vote) in conjunction with Article 2 (non-discrimination) or Article 26 (equality before the law) was identified. Similarly, no relevant Inter-American Court of Human Rights case law was found.

Conclusions

The process indicators highlight the steps taken to transform commitments regarding the right to political participation of persons with disabilities into the desired outcomes. One such step is the development of guidelines for the responsible public authorities. Most EU Member States have, for example, developed detailed guidelines on how to make polling stations accessible.

At the heart of processes to implement the CRPD is consultation with DPOs and civil society organisations,

required under Articles 4 and 33 of the convention. EU Member States have taken significant steps to involve representative organisations of persons with disabilities in decision making: nearly all have established mechanisms to ensure consultation in law or in practice. DPOs have also cooperated with political parties taking part in the May 2014 European Parliament elections to promote accessible campaign material.

Where a right such as the right to vote is denied, it must be possible to seek a remedy. In many Member States, information about how and where to complain about problems exercising the right to political participation is not accessible, likely contributing to the low number of relevant cases brought to judicial and non-judicial complaints mechanisms. Individual cases concerning the political participation of persons with disabilities have, however, reached the ECtHR, and the CRPD Committee under the Optional Protocol to the CRPD.

4

Outcome indicators: a reality check

“Outcome indicators capture individual and collective attainments that reflect the state of enjoyment of human rights in a given context. An outcome indicator consolidates over time the impact of various underlying processes [...]”

UN, OHCHR (2012), Human Rights Indicators: A Guide to Measurement and Implementation (HR/PUB/12/5), p. 37

Outcome indicators are the final component of the OHCHR’s framework for human rights monitoring. By assessing the results of states’ efforts to further the enjoyment of human rights, they may be considered as measures of human rights in practice rather than in principle or policy.¹⁵⁵ Unlike process indicators

which assess changes over a certain period, outcome indicators measure results at a particular point in time. Nevertheless, by repeating the population of outcome indicators at regular intervals, they can demonstrate the progressive realisation of rights over time.

Outcome indicators may often be framed as outcomes for people, in terms of achieving a relative level of participation in society compared to the general population. In the context of disability, however, they could also refer to outcomes in the environment, such as the accessibility of relevant infrastructure, for example polling stations.¹⁵⁶

Table 4: Overview of links between outcome indicators

Theme	Outcome indicators
Lifting legal and administrative barriers to political participation	4.1.1. Members of national parliament with a disability 4.1.2. Members of municipal authorities with a disability
Increasing awareness of the right to political participation of persons with disabilities	4.2.3. Accessibility of information websites 4.2.4. Accessibility of information television broadcasts 4.2.5. Accessibility of election manifestos
Making voting procedures, facilities and election materials more accessible	4.2.1. Accessibility of polling stations 4.2.2. Accessibility of public buildings 4.2.3. Accessibility of information websites 4.2.4. Accessibility of information television broadcasts 4.2.5. Accessibility of election manifestos
Expanding opportunities for participation in political life	4.1.1. Members of national parliament with a disability 4.1.2. Members of municipal authorities with a disability

¹⁵⁵ Landman, T. (2004).

¹⁵⁶ Lawson, A. and Priestley, M. (2013), pp. 739-757.

Observing the participation of persons with disabilities in elections

One of the activities of the Office for Democratisation and Human Rights (ODHIR) of the Organization for Security and Co-operation in Europe (OSCE) is to observe elections. As well as looking at the legal provisions enabling persons with disabilities to participate in elections, ODHIR election observation missions also assess the accessibility of information materials, candidate lists, ballot papers and polling stations.¹⁵⁷

ODHIR has increasingly referred to the CRPD in its election observation reports, in addition to the OSCE Copenhagen Document¹⁵⁸ and Council of Europe standards such as the Code of Good Practice in Electoral Matters of the Venice Commission¹⁵⁹ and the implications of the ECtHR judgment in *Alajos Kiss v. Hungary*.¹⁶⁰ A 2013 ODHIR report on electoral legislation in OSCE participating States, for example, acknowledges an “emerging trend to discontinue restrictions on voting rights for persons with mental disabilities”.¹⁶¹

Observing local elections is also one of the priorities of the Council of Europe’s Congress of Local and Regional Authorities, which has observed around 100 municipal, regional, local and mayoral elections in the Council of Europe’s 47 member states since 1990.¹⁶² The observation reports have considered in particular the accessibility of polling stations for persons with disabilities, alternative means of voting and voting assistance.¹⁶³

4.1 Representation in elected bodies

Being able to stand for and be elected to national parliaments is an integral aspect of the right to political participation, as specifically highlighted in Article 29 of the CRPD. Looking at the number of parliamentarians who are identified as having a disability can give an indication of the profile of persons with disabilities in public life, as well as the existence of barriers to reaching public office.

Are people with disabilities elected to national parliament?

Members of parliament are elected to represent the interests of the population, including persons with disabilities. As such, the make-up of parliaments may be expected to be broadly representative of the population. This indicator set out to measure the proportion of current members of national parliaments who identify as having a disability. No personal data were requested: parliaments were not asked to provide the names or any other details of parliamentarians with a disability.

The analysis found, however, that no reliable and comparable data exist on the number of parliamentarians with disabilities in the EU Member States. This is partly because parliamentarians with disabilities, like everyone else, have a right to privacy and therefore are not under an obligation to reveal a disability. Moreover, in

many Member States information concerning disability falls under the umbrella of health data, and is therefore confidential. When contacted by the FRA, parliaments in several Member States said they could not release this information even on an anonymous basis.

Instead, the following analysis gives an overview of those EU Member States in which data indicate that current national parliaments include members who identify as having a disability. This does not give an exhaustive picture of the situation in Member States. Some parliamentarians, whom others would identify as having a disability, may not see themselves as disabled, for example. In other cases, members of parliament may have ‘hidden’ disabilities or have not requested accommodations linked to a disability, and therefore do not appear in official data.

In seven Member States, data from official government sources reveal the existence of one or more members of parliament who publically identify as having a disability. Of these, **Croatia** was the Member State with the most reported members of parliament with a disability (7) followed by **Poland** and the **United Kingdom** (3 each). In addition, the **Greek** national parliament has received two requests from parliamentarians for accommodation measures due to disability since 1996, while information from the **Portuguese** parliament indicates that one member claimed reduced income tax due to disability. Conversely, in **Cyprus** and **Luxembourg** official data indicates that no members of the current national parliaments identify as having a disability.

¹⁵⁷ All election observation mission reports are available at: www.osce.org/odihr/elections.

¹⁵⁸ OSCE (1990).

¹⁵⁹ Council of Europe, Venice Commission (2002).

¹⁶⁰ For instance, in OSCE, ODIHR (2012); (2011a) and (2011b).

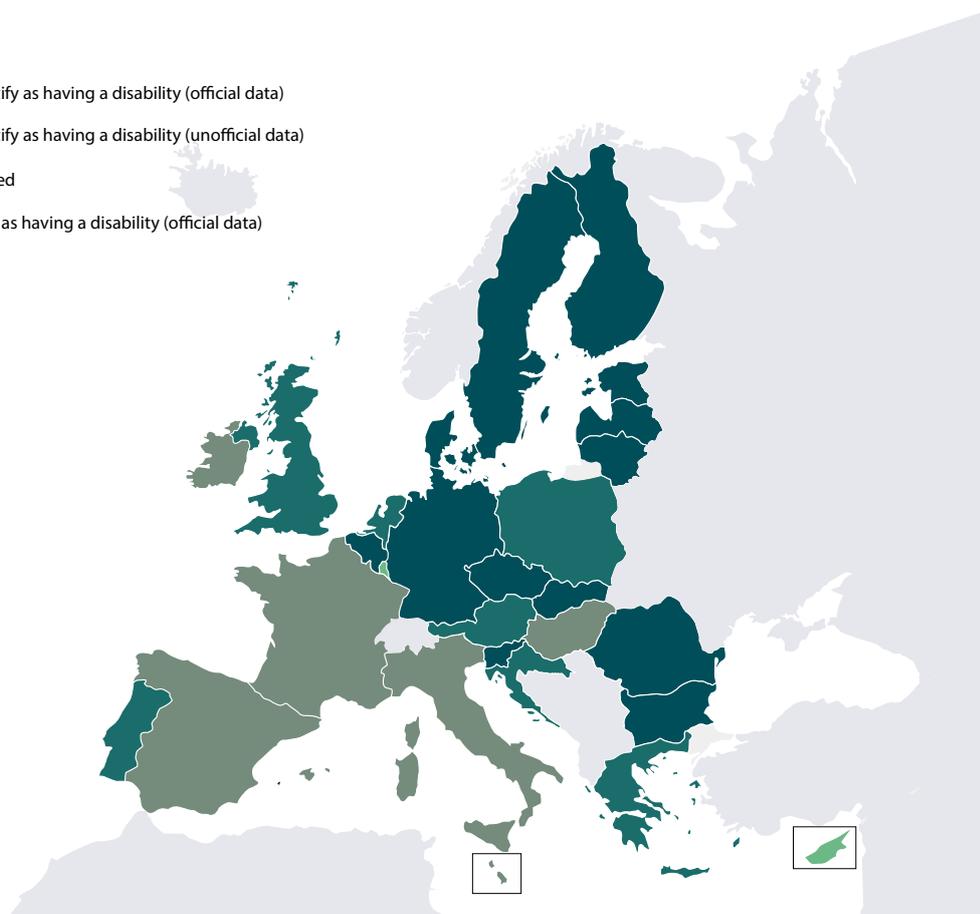
¹⁶¹ OSCE, ODIHR (2013).

¹⁶² Council of Europe, Congress of Local and Regional Authorities (2013).

¹⁶³ See, for example, Council of Europe, Congress of Local and Regional Authorities (2012).

Figure 31: Are persons with disabilities members of the current national parliament?

- Some MPs identify as having a disability (official data)
- Some MPs identify as having a disability (unofficial data)
- No data identified
- No MPs identify as having a disability (official data)



Source: FRA, 2014

In a second group of Member States, including **France, Hungary, Ireland, Italy, Malta and Spain**, data indicating that there are parliamentarians who identify as having a disability could be collected from unofficial sources such as candidate websites and the media. In several of these cases, the parliamentarians have spoken of their experiences as elected officials with a disability.¹⁶⁴

In 13 Member States, no data were identified regarding this indicator.

Promising practice

Supporting candidates standing for election

The government of the **United Kingdom** has developed a strategy to support disabled people who want to stand for elected office, whether at national or local level. Online information targeting potential candidates includes advice for disabled politicians and guidance for political parties on their

obligations to provide reasonable adjustments. A €3.2 million (GBP 2.6 million) fund was established to help candidates with any disability-related costs of standing for election. Grants of between GBP 250 and GBP 20,000 can be made for any additional cost such as accessible transport, accommodation or sign-language interpreting.

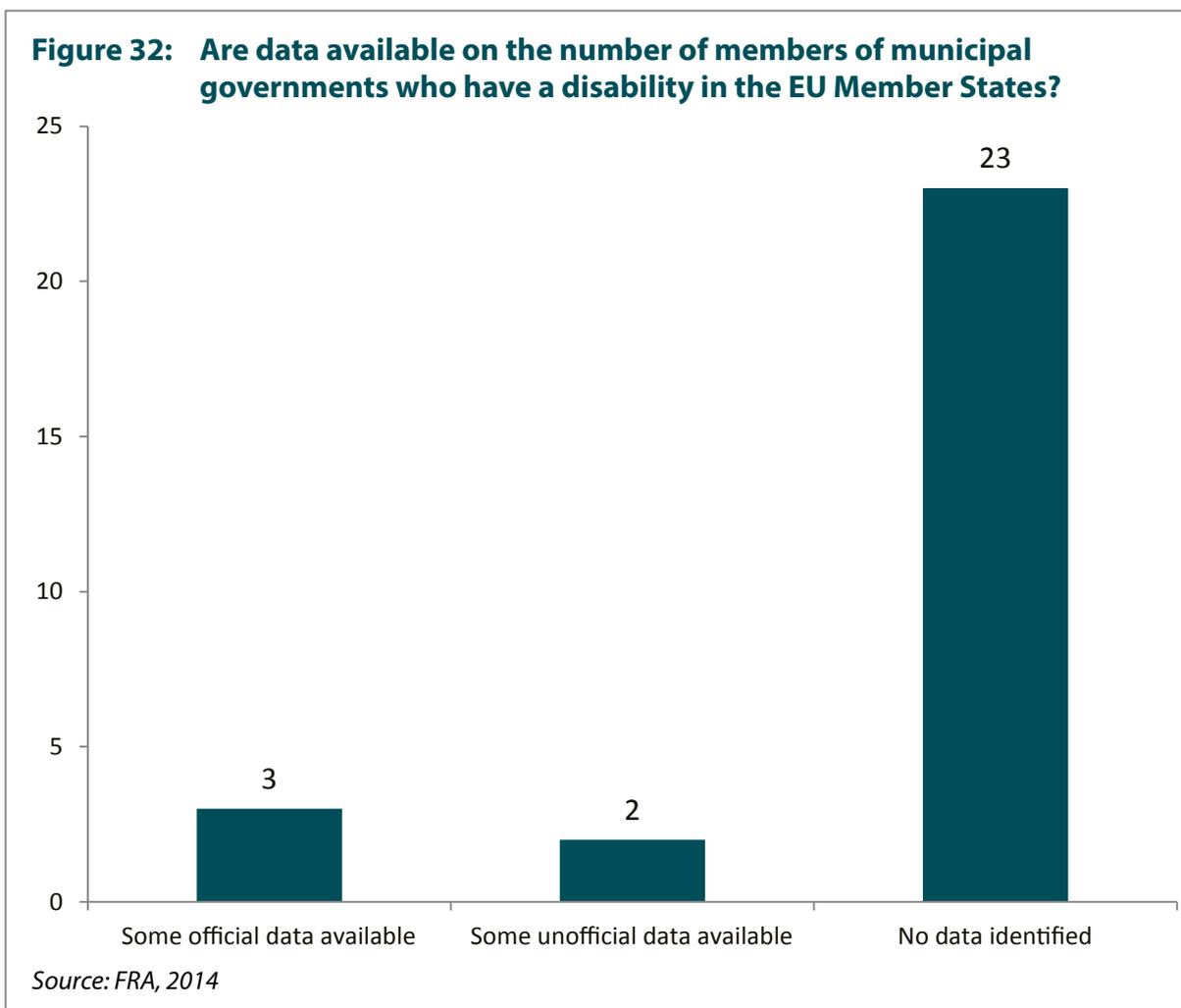
For more information, see: www.access-to-elected-office-fund.org.uk/

Are people with disabilities elected to municipal governments?

Municipal governments make important decisions affecting local services and so it is important that people with disabilities are adequately represented within them. Many members of national parliaments begin their political careers at the local level and the few municipal government members with disabilities may indicate wider barriers to standing for electoral office.

As with indicator 3.1 above, this indicator did not seek to collect personal data, but to gather information on overall numbers of members of municipal governments who

¹⁶⁴ See, for example, France, *Le Parisien* (2012) and Hungary, *Index* (2005).



identify as having a disability. The analysis again found, however, that there is very little systematic data available on this issue so the figure below highlights those Member States in which some related data were found.

Very limited data were identified that would give a reliable indication of the number or proportion of members of municipal governments with disabilities. In **Croatia**, **Greece** and the **United Kingdom** alone were sources of official data identified, while in **Austria** and **Sweden** the FRA analysis indicates the availability of some unofficial data. The most comprehensive data were available in the United Kingdom, where a census of local authority councillors by Local Government Association in 2010 indicated that 14 % of local councillors indicated that they had a long-term illness, health problem or disability that limited the daily activities or work they could do.¹⁶⁵

The disclosure of personal data about disability status may be more sensitive than data on gender but the systematic absence of equal opportunities monitoring raises concerns about the little knowledge available

on the opportunities and barriers to elected office for people with disabilities.

Promising practice

Surveying the accessibility of political life

The **Swedish** Agency for Disability Policy Co-ordination (*Handisam*) published a study in 2007 about accessibility in political life, including a survey of elected local officials. A sample of 1,500 elected politicians in the municipalities and county councils received the survey by post. In total 983 representatives completed the survey, a response rate of 65 %. In addition, six interviews were conducted with elected representatives with various disabilities.

As part of the survey, respondents were asked whether they had a disability. The results indicate that elected political officials with disabilities do not differ significantly from other elected officials in terms of age and gender. There are no major

¹⁶⁵ United Kingdom, Local Government Association (2011), p. 21.

differences in the age composition of the elected representatives with or without disabilities.

For more information, see: *The Swedish Agency for Disability Policy Co-ordination (Handisam) (2007), Accessibility in the political life of local governments (Tillgängligheten i det politiska livet i kommuner och landsting), available at:*

www.handisam.se/Publikationer-och-press/Rapporter/Handikappolitisk-utveckling/Tillgangligheten-i-det-politiska-livet-i-kommuner-och-landsting/

4.2 An enabling environment

Participating in political life requires being able to access the places where it takes place and the information on which it is based. These indicators focus on the accessibility in practice of the buildings and communications that are at the heart of political participation.

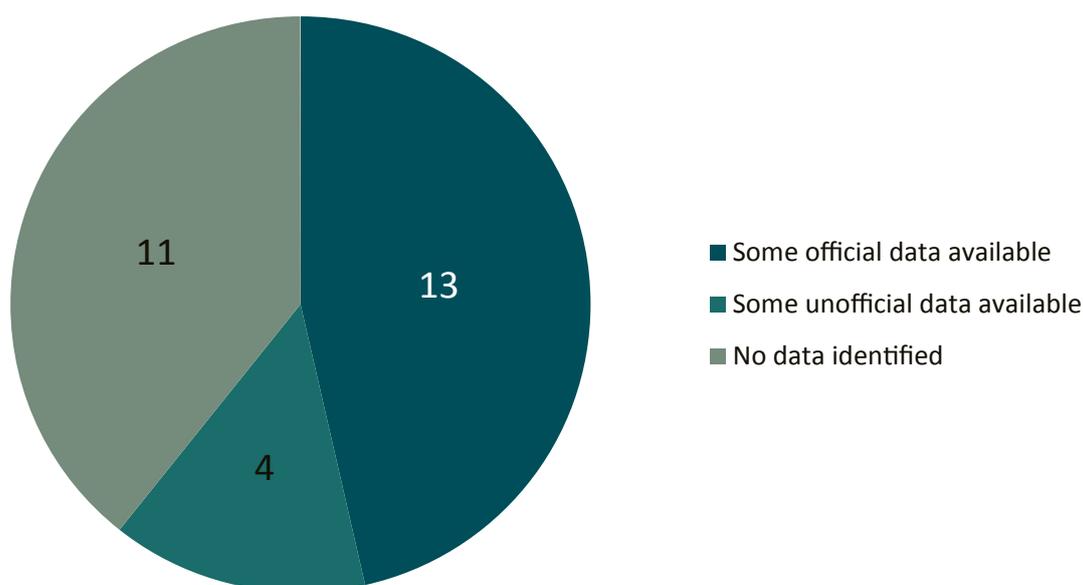
Are polling stations accessible for persons with disabilities?

During an election, most people vote at a polling station. To be accessible, a polling station must be usable by all persons with disabilities. As well as people with physical impairments who may, for example, find it difficult to climb stairs, this means taking into account the needs of people with visual or hearing impairments and people with intellectual disabilities.

In nearly two thirds of EU Member States there is a legal requirement for some or all polling stations to be accessible to persons with disabilities (see indicator 2.3.4). The analysis presented below, however, shows that there is no reliable source of data to compare the numbers of polling stations that are accessible to voters with disabilities in practice in different EU Member States. Instead, the map shows those Member States where some data on polling station accessibility are collected. Where data were available, estimates of the proportion of accessible polling stations ranged from 2 % to 50 %.

In 13 EU Member States, public authorities collected official data on the number of polling stations that are accessible for persons with disabilities. In many cases, however, these data were incomplete, either because they only covered certain cities or provinces, or because they only considered accessibility for certain impairment groups. The National Electoral Commission (*Državna volilna komisija*) in **Slovenia**, for example, provided FRA data indicating that out of 3,337 polling stations for the 2012 presidential elections, all polling stations had stencils available to assist persons with visual impairments, 1,148 (34 %) were free of ‘architectural barriers’ preventing access for persons with physical disabilities, and only 30 polling stations were officially designated accessible polling stations with a voting machine to assist persons with visual or physical

Figure 33: Are data available on the proportion of polling stations that are accessible to persons with disabilities in the EU?



Source: FRA, 2014

Promising practice

Surveying the accessibility of polling stations

The **Danish** Equal Opportunities Centre for Disabled Persons carried out a national survey of polling station accessibility across 98 municipalities in 2008. Of the three quarters that responded, only 36 % of municipalities reported level access to all polling stations, without steep ramps or steps. In 62 % of municipalities, parking spaces were reported, while 19 % reported toilets accessible for persons with disabilities near the polling station. Of those that responded, 36 % of polling stations in 67 municipalities answered all these criteria positively, however only 10 % of municipalities were able to guarantee that all their polling stations met these standards.

For more information, see: Denmark, the Equal Opportunities Centre for Disabled Persons (Center for Ligebehandling af Handicappede) (2008), Demokrati for alle – en gennemgang af valgloven m.v.

In the **United Kingdom**, the NGO Scope conducted a survey of 1,000 polling stations to assess the accessibility of the 2010 General Election for persons with different types of impairment. It found that 67 % of polling stations had one or more significant access barriers. Scope also sent freedom of information requests to all chief executives of local authorities to ask if they had carried out the legally required self-assessment of polling station accessibility. Of the 70 % of polling stations that responded, 89 % had undergone a review. Of these, 14 % were found not to be accessible.

For more information, see: Scope (2010), Polls Apart 5: Opening Elections to Disabled People, available at: www.scope.org.uk/sites/default/files/pdfs/Campaigns_policy/Scope-Polls Apart 5 Report.pdf

disabilities.¹⁶⁶ In a further four Member States, FRA research identified unofficial data on the number of polling stations.

The criteria for determining whether a polling station is accessible vary widely. However, they mostly refer to the wheelchair accessibility of the building, and do not take into account the accessibility needs of people with other types of impairment. In the **Netherlands**, the criteria mostly address accessibility for people with physical and visual impairments, for example the

provisions of specific parking spaces, clear signs and low-level voting booths.¹⁶⁷

In 11 out of 28 Member States, FRA did not identify any information sources on polling station accessibility.

Are national and local authority buildings accessible for persons with disabilities?

As well as their use as polling stations during elections, national and local authority buildings are often the site of council meetings, consultations or political speeches, as well as party political or civil society meetings. Although nearly all EU Member States have mandatory accessibility rules for national and local authority buildings (see indicator 2.3.3), it is difficult to identify reliable information from official sources on the proportion of national and local authority buildings that are accessible for persons with disabilities in practice.

The analysis below rather highlights those Member States where some data on the accessibility of public buildings were identified, either from official government sources or from other information providers, including NGOs.

In only five Member States: **Croatia**, the **Czech Republic**, **France**, **Greece**, **Poland** and **Romania** did the analysis identify a source of official government data on the accessibility of public authority buildings. In **Greece**, 9 % of 3,828 public buildings were fully accessible to people with disabilities, a survey published by the Ministry of Administrative Reform and Electronic Government in 2008 found.¹⁶⁸ Similarly, in **France**, a 2012 report by the Inter-ministerial Observatory on accessibility and universal design found that 15 % of establishments open to the public conform with accessibility standards.¹⁶⁹

In a second group of six EU Member States, **Hungary**, **Lithuania**, **Portugal**, **Romania**, **Slovenia** and **Sweden**, some data on the proportion of public authority buildings that are accessible for persons with disabilities were found from unofficial sources such as research undertaken by NGOs. The **Lithuanian** society of persons with disabilities assessed the accessibility of over 350 public buildings in nine Lithuanian municipalities in 2012, reporting that almost half are not accessible to persons with disabilities.¹⁷⁰ In 2010, the **Portuguese** Association for Consumer Protection evaluated the accessibility of 33 public authority buildings across five cities against a number of criteria covering the inside and outside of

¹⁶⁷ Netherlands, Project Bureau Accessibility (2012).

¹⁶⁸ Greece (2008).

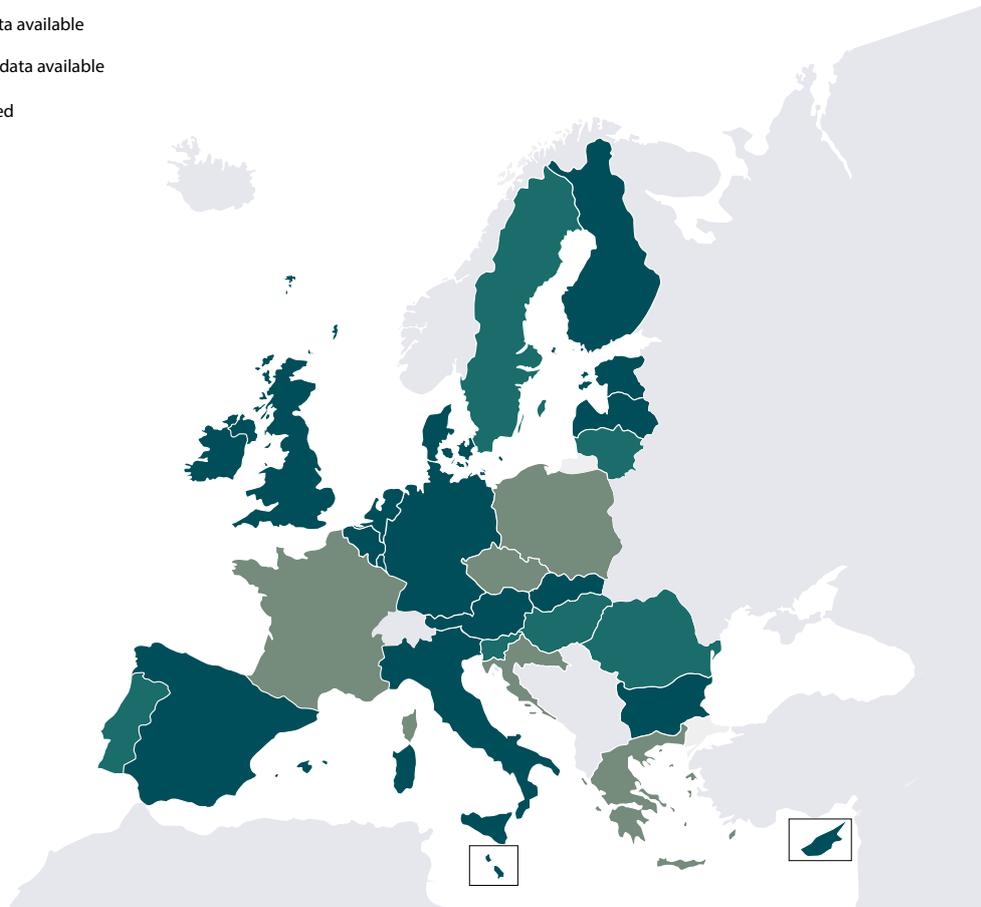
¹⁶⁹ Available at: www.territoires.gouv.fr/IMG/pdf/Rapport_Obiacu_2012.pdf.

¹⁷⁰ Motiejūniene, V. (2011).

¹⁶⁶ Some of the information supplied in this chapter is based on in-house FRA indicator research.

Figure 34: Are data available on the proportion of public buildings that are accessible for persons with disabilities in the EU?

- Some official data available
- Some unofficial data available
- No data identified



Source: FRA, 2014

the buildings.¹⁷¹ The study concluded that none were fully accessible to persons with disabilities, with major physical barriers found in 23 of the buildings.

Promising practice

Measuring the accessibility of public authority buildings

The Government Plenipotentiary for Disabled Persons in **Poland** conducted a study in 2008 on the Accessibility of Governmental Administration Building and Central Offices. Data were gathered through a survey addressed to ministries and central offices in Warsaw: 33 responded, providing information about 62 buildings. The results show that many of these buildings remain inaccessible for persons with different types of impairments. For example:

- Just over half (55 %) of buildings had lowered curbs in parking spaces, enabling easy access to the building;

- Only 32 % of buildings surveyed had signs indicating accessible entrances to buildings;
- 37 % of the buildings had tone communication to assist persons with visual impairments navigate the building;
- In only 17 % of the buildings were staircases marked correctly for people with visual impairments;

In reference to accessibility for persons with hearing impairments, for example:

- 69 % of the buildings offered the assistance of an employee to support persons with intellectual disabilities.

For more information, see: Poland, Government Plenipotentiary for Disabled Persons, Report from research on the accessibility of buildings of governmental administration and central offices to persons with disabilities (Raport z badania na temat dostępności budynków administracji rządowej i urzędów centralnych dla osób niepełnosprawnych), Warsaw, March 2008

¹⁷¹ Portugal, Portuguese Association for Consumer Protection (2011), pp. 14–17.

Do websites providing instructions for voting and information on candidates meet accessibility standards?

Being aware of how to vote and knowing about the policy platforms and priorities of different candidates and political parties are essential to informed political participation. Much of this information is now provided online, so it is necessary for such websites to meet accessibility standards. As highlighted in indicator 2.3.1, legal standards for website accessibility, where they exist in EU Member States, often only apply to public sector websites.

This indicator measures whether the website that provides instructions on voting and information on candidates run by the federal ministry responsible for organising elections declares that it meets accessibility standards, namely the WCAG 2.0 AA guidelines.

The data collected by FRA present a mixed picture regarding the accessibility of websites giving information on voting and candidates for election. In six out of 28 EU Member States, FRA analysis identified no conclusive evidence and in only 10 countries was it possible to confirm that such websites meet the AA accessibility standard. In a further 12 Member States, however, FRA found that they had implemented some accessibility measures.

Data for Member States in the first group typically show that the website of the national electoral authority declares that it meets WCAG 2.0 AA standards. This is the case for example in **Sweden**, where the Swedish Agency for Disability Policy Co-ordination (*Handisam*) also rated the Central Election Authority's website as accessible according to a comparison of the accessibility of public authority websites in 2013.¹⁷² In the **Czech Republic**, both the website providing summaries of all candidates and the results of elections run by the Czech Statistical Office¹⁷³ and the page providing instructions for voting on the website of the Ministry of Interior¹⁷⁴ state that they meet the WCAG 2.0 AA accessibility standards.

In the second group of Member States, websites providing this information do not indicate that they meet the WCAG 2.0 AA standard but the analysis indicates that

some measures are implemented to increase accessibility for persons with disabilities. In **Spain**, for instance, the website of the Ministry of the Interior has a section on 'Accessible voting', which includes information on electoral processes and a link to a telephone text service for persons with hearing impairment.¹⁷⁵ Similarly, the **Polish** National Election Commission website contains tools for text enlargement, a simplified text version, a high contrast version, and pre-recorded video materials accompanied by text.¹⁷⁶

Promising practice

Making election and candidate information accessible

As part of **Finland's** Disability Policy Programme 2010–2015 (*Vammaispoliittinen ohjelma 2010–2015, VAMPO/Finlands handikappolitiska program 2010–2015, VAMPO*), the Ministry of Justice produced easy-to-understand election videos in Finnish and Swedish on how to vote in municipal elections, and how to cast a ballot in an advance voting station. In the 2011 national elections and 2012 municipal elections, the Ministry of Justice made efforts to expand voter education and information, including extensive website content. For the first time, candidate lists were also provided on audio CD and in Braille making it possible for people with visual impairments to study district candidate lists independently.

Videos available at: <http://vaalit.fi/58382.htm>

"Sure, I vote" (*Klar geh ich wählen*) is an easy-to-read guide for **German** parliamentary elections, which answers frequently asked questions in accessible language. The brochure, published in 2013, uses illustrations to demonstrate how to vote. The brochure was produced by Berlin's Electoral Commissioner (*Landeswahlleiterin für Berlin*) in cooperation with the Centre for Political Education (*Landeszentrale für politische Bildungsarbeit*) and an alliance of service providers and disability organisations in Berlin.

For more information, see: www.berlin.de/imperia/md/content/lzpb/aktuelles/klar_geh_ich_w__hlen_barrierefreiespdf.pdf

172 Sweden, Handisam, available at: www.handisam.se/Uppfoljning-och-statistik/uppfoljning-i-staten-Oppna-jamforelser/Oppna-jamforelser-2013/?Authority=412&year=2013&firstcompareyear=2012&earliestyear=2011.

173 Czech Statistical Office, Statement on Accessibility.

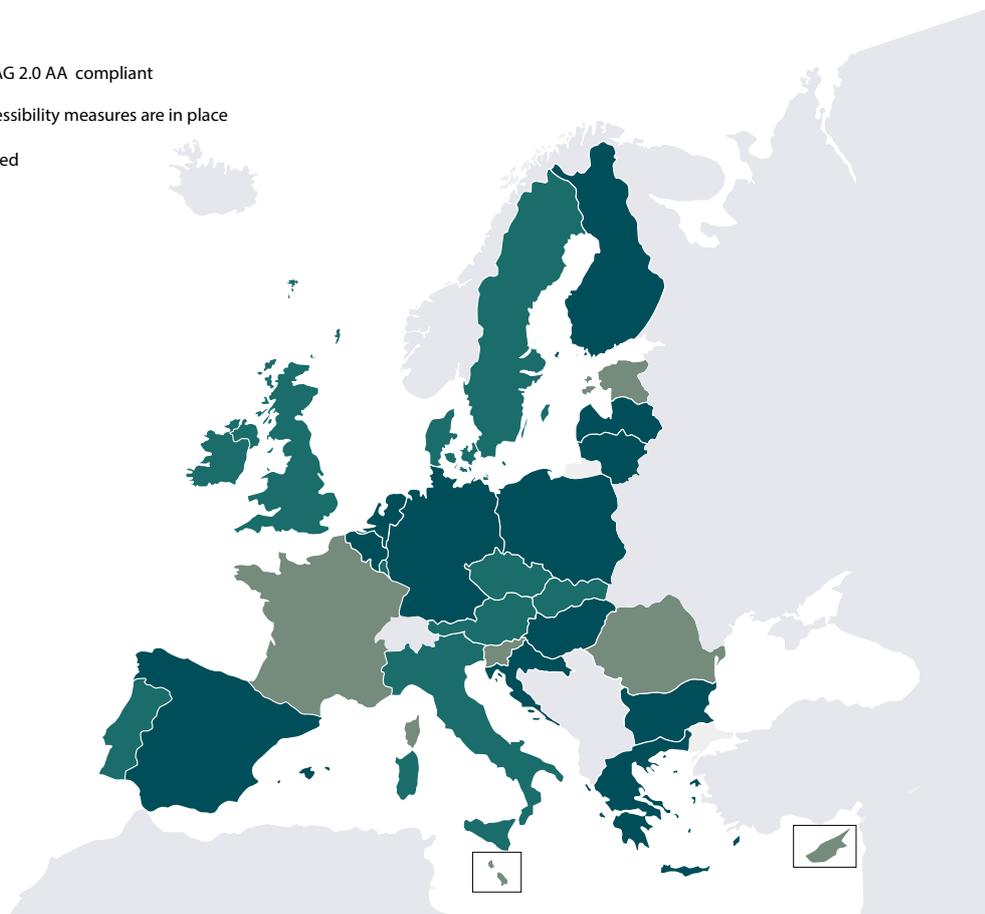
174 See: www.mvcr.cz/volby.aspx.

175 See: www.infoelectoral.mir.es/Accesibilidad_procesos_electorales/visita_voto_accessible.htm.

176 Available at: <http://pkw.gov.pl/aktualnosci/>.

Figure 35: Does the website providing instructions for voting and information on candidates meet accessibility standards?

- Yes, website is WCAG 2.0 AA compliant
- Partially, some accessibility measures are in place
- No/no data identified



Source: FRA, 2014

Are television programmes providing instructions for voting and information on candidates accessible?

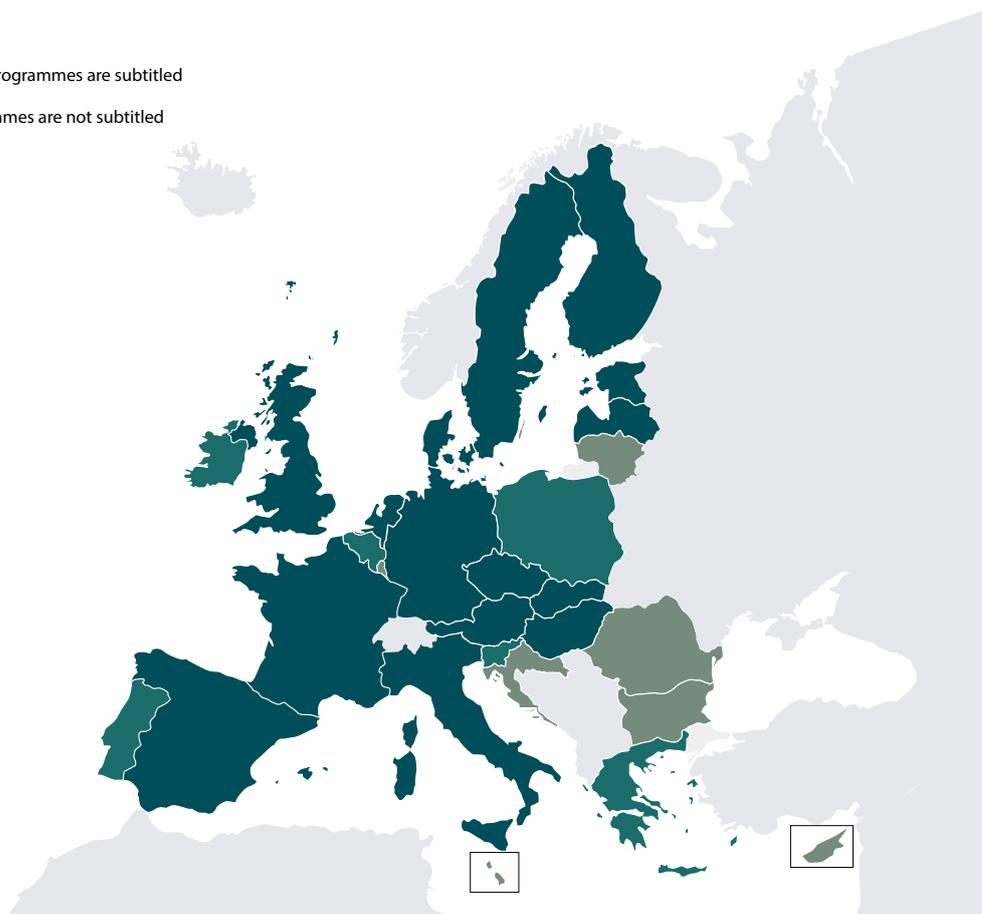
Many people get information about how to vote and the different candidates standing for election through television broadcasts in the run-up to election day. Some people with disabilities, however, face significant barriers in accessing this kind of information. In particular, people with hearing impairments may find television programmes hard to access without the provision of subtitles or sign language interpretation, while persons

with visual impairments benefit from audio description of programmes. As shown by indicator 2.3.2, where they exist, national legal requirements regarding the accessibility of television programming typically cover both public and private broadcasters.

This indicator measures whether television programmes providing instructions for voting and information on candidates standing for election are accessible to persons with disabilities. It considers three different ways of making such broadcasts more accessible: providing subtitles, offering national sign language interpretation and the use of audio description.

Figure 36: Are some television programmes providing instructions for voting and information on candidates subtitled?

- Yes, some key programmes are subtitled
- No, key programmes are not subtitled
- No information



Source: FRA, 2014

Giving recognition to sign language

Many EU Member States have officially recognised national sign languages. Finland and Austria gave them constitutional recognition, while others recognised them in disability-specific legislation, decrees or regional laws. As sign languages are natural languages like spoken languages, they vary from country to country. There may even be different sign languages within a country, as in Spain or Belgium.

The CRPD Committee in its concluding observations has commended state parties for recognising national sign languages.¹⁷⁷ Moreover, the Council of Europe's Parliamentary Assembly has called for the protection of sign languages in Member States, particularly stressing the need for TV broadcasting in sign languages,¹⁷⁸ while the European Parliament called on the European Commission to examine the possibility of introducing legislation on sign language interpretation of news broadcasts and programmes of political interest, especially during election campaigns.¹⁷⁹

When developing this indicator, the FRA set out to gather information on the proportion of television broadcasts providing instructions for voting and information on

candidates that were made accessible for persons with disabilities in these three ways. However, the analysis indicates that no directly comparable data are available.

177 UN, Committee on the Rights of Persons with Disabilities (2012a); and UN, Committee on the Rights of Persons with Disabilities (2013d).

178 Council of Europe. Parliamentary Assembly (2003).

179 European Parliament (1998).

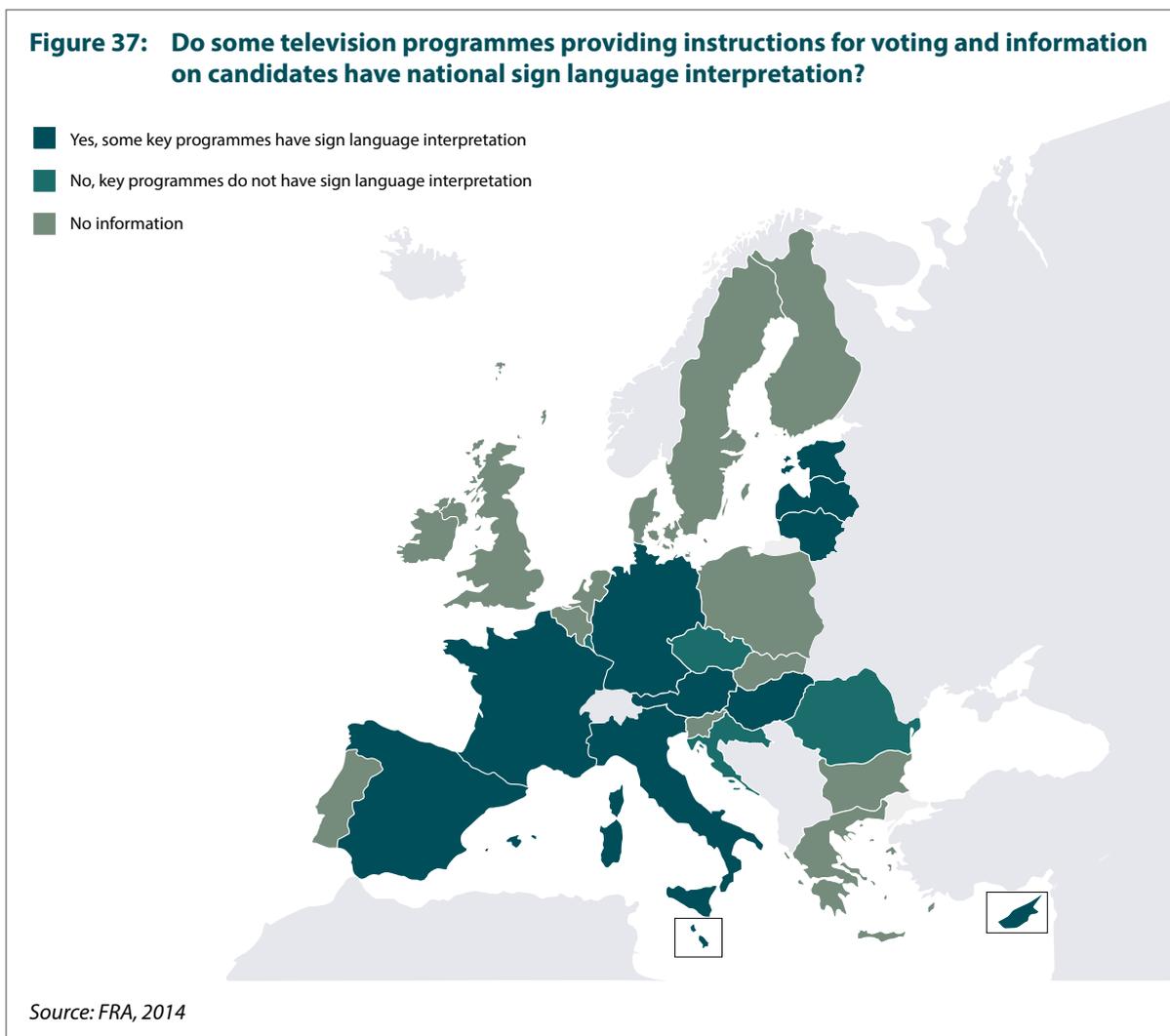
The three following maps show Member States where data indicate that there is some subtitling, sign language interpretation and audio description of these programmes.

Subtitling of some programmes providing instruction on voting and information on candidates is available in half (15) of the EU Member States. Subtitling is mostly available in the daily news programming provided by the main public television broadcaster. For example, information provided by the national **Austrian** Broadcasting Company ORF indicates that 63 % of political information broadcasts, including daily newscasts and weekly political information programmes, have national language subtitles.¹⁸⁰ In **Latvia**, the public broadcaster LTV showed video clips prepared by the Central Election Commission ahead of the recent municipal and parliamentary elections, which included information about voting times and the possibility to apply to vote at home.¹⁸¹

Promising practice Increasing the accessibility of political programming

All **Swedish** television programmes about voting have national language subtitles. The proportion of subtitled programmes on Swedish National Television (*Sveriges Television, SVT*) increased to 71 % in 2012 compared to 59 % in 2011, with 92 % of the programmes that are aired between the hours of 18:00 and 23:00 subtitled. SVT offers subtitles, spoken text, sign language interpretation and audio description of its programming.

For more information, see: Sweden, The Swedish Agency for Disability Policy Coordination (2012) *Monitoring disability policy in Sweden (Hur är läget? Uppföljning av funktionshinderspolitiken 2012)*, available at: <http://www.mfd.se/?flik=3>



¹⁸⁰ Some of the information supplied in this chapter is based on in-house FRA indicator research.

¹⁸¹ Latvia, Central Election Commission (2013).

Turning to the provision of sign language interpretation, the analysis highlighted 11 Member States where some television programmes providing instructions for voting and information on candidates have sign language interpretation. As with subtitling, sign language interpretation is often offered for daily news bulletins broadcast by public television channels; this is the case in **Austria**,¹⁸² **Cyprus**,¹⁸³ **Italy** and **Estonia**,¹⁸⁴ for example. The three **French** public TV broadcasters France 2, France 3 and France 5 provide sign language interpretation for some programmes including the weekly parliamentary questions. More specifically, in **Italy** short clips providing instructions for voting broadcast by public television are translated into Italian sign language.¹⁸⁵

Promising practice

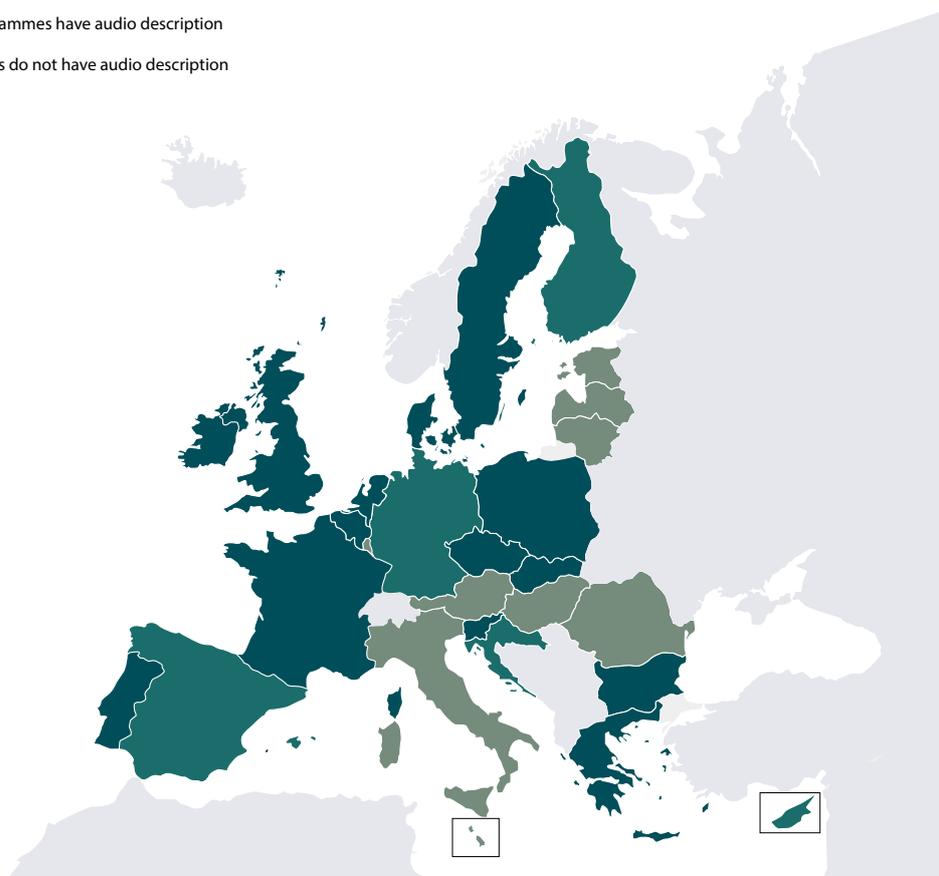
Translating voter information into sign language

According to **Latvian Television**, the main public television station, all main programmes providing information about election candidates have sign language interpretation. For the 2009 European Parliament elections and the 2010 parliamentary elections, the Central Election Commission implemented a specific project to improve the accessibility of political broadcasts for persons with hearing impairments. Information about the candidate lists and election programmes was translated into Latvian Sign Language.

For more information, see:
<http://cvk.lv/pub/public/29699.html> and
<http://cvk.lv/pub/public/29402.html>

Figure 38: Are some television programmes providing instructions for voting and information on candidates audio described?

- Yes, some key programmes have audio description
- No, key programmes do not have audio description
- No information



Source: FRA, 2014

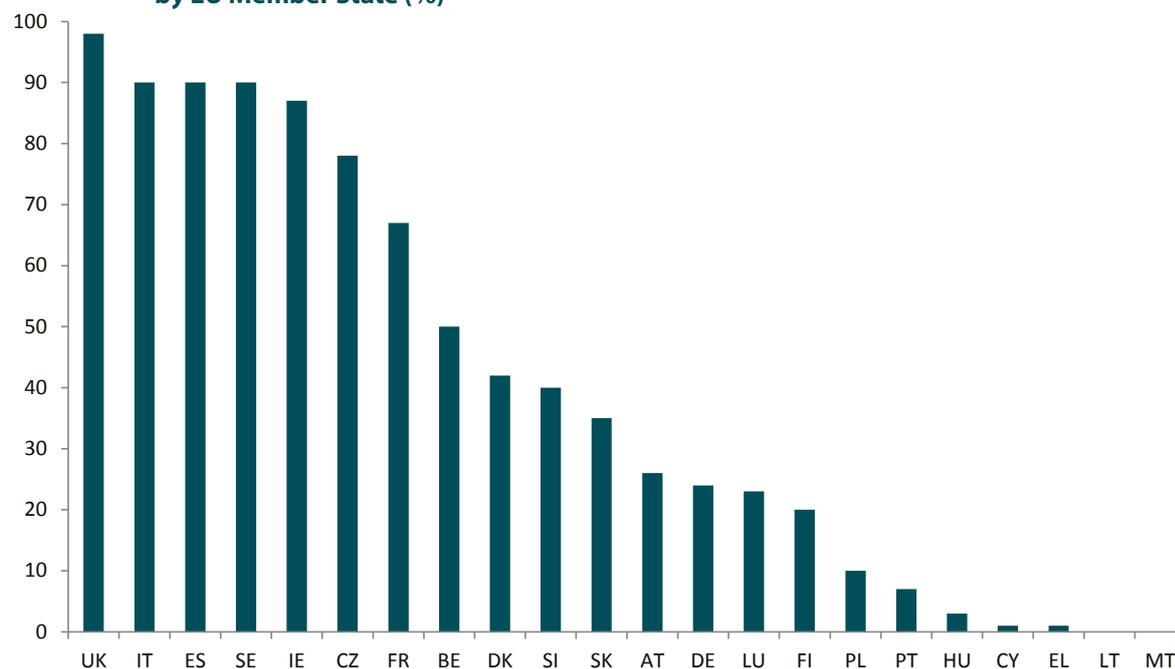
182 Some of the information supplied in this chapter is based on in-house FRA indicator research.

183 *Ibid.*

184 *Ibid.*

185 Italy, Rai (2013).

Figure 39: Subtitled programmes on the main public sector television channel, by EU Member State (%)



Source: *Measuring Progress of eAccessibility in Europe, 2007–2008*

Audio description of programmes providing instructions for voting and information on candidates is much less widely available than subtitling or sign language interpretation. Evidence that some such broadcasts included audio description was found in only five EU Member States. In **Cyprus**, the daily news bulletin is audio described,¹⁸⁶ while in **Spain** the information campaigns and videos prepared by public authorities to provide instructions for voting have audio description.¹⁸⁷ For the 2011 municipal elections six different videos and radio spots, in Spanish and in the four co-official languages, were prepared including audio description.¹⁸⁸

Promising practice

Making audio description the norm

The analysis indicates that Finland has the highest level of audio description of television programming in the EU. According to the Finnish Communications Regulatory Authority (*Viestintävirasto, FICORA/Kommunikationsverket, FICORA*), in 2012 89 % of programmes broadcast on public television

were audio described. For private broadcasters, 90 % of programmes on channel MTV3, 100 % of programmes on Nelonen and 41 % of broadcasts on Fox had sign language interpretation.

For more information, see: *Finnish Communications Regulatory Authority (Viestintävirasto/Kommunikationsverket, FICORA) (2013), Requirements for audio and subtitle services in television programming (Ääni- ja tekstitysvelvoite televisio-ohjelmassa)*, available at: www.viestintavirasto.fi/tvradio/ohjelmisto/aani-jatekstityspalvelut.html

To give a broader picture of the provision of accessible television programming, statistical data from the EU-funded project Measuring Progress of eAccessibility in Europe (MeAC) are also presented. This project collected data from all EU Member States except Bulgaria, Croatia and Romania during 2007 and 2008. For each country, information on the highest reported percentage of programming by a main public broadcaster with national language subtitling, sign language interpretation and audio description, respectively, was collected (where available). Although this measures only the highest level of accessible programming by one public service channel rather than overall provision within a country, it provides a benchmark of the situation in different EU Member States.

The data show great variety in the proportion of programmes that are subtitled across the EU. In four EU Member States at least 90 % of programmes on the main public sector broadcaster were subtitled, while in 10 Member States less than a quarter were. Three countries, where subtitling was known but no figure

¹⁸⁶ Some of the information supplied in this chapter is based on in-house FRA indicator research.

¹⁸⁷ Available at: http://elecciones.mir.es/locales2011/Campanas_institucionales/Campanas_institucionales.htm

¹⁸⁸ See: http://elecciones.mir.es/locales2011/Campanas_institucionales/Campanas_institucionales.htm.

provided, were not included (**Estonia, Latvia** and the **Netherlands**).

In the case of both sign language interpretation and audio description even the best performing providers have very low percentages. In many cases the proportions of programmes with sign language interpretation were estimated, especially where they were very low (e.g. less than 1 %). Only four countries reported any direct audio description (**Austria, Denmark** and **Luxembourg**, with less than 2 %, and the **United Kingdom** with 14.6 %), underlining the general lack of audio-described programming. Some further data are now available for 12 countries as a result of updates in the MeAC project.¹⁸⁹

Promising practice

Providing oversight of television accessibility

The **Hungarian** National Media and Infocommunications Authority (*Nemzeti Média- és Hírközlési Hatóság*) regularly supervises the fulfilment by the six largest television broadcasters of their obligations to provide subtitles and sign language interpretation. This supervision, on the basis of Resolution 1601/2011 (XI. 9) of the Media Council (*Médiatanács*) is carried out with the use of a web-based programme and the involvement of hearing-impaired staff members recommended by the Hungarian Association of the Deaf and Hard of Hearing (*Siketek és Nagyothallók Országos Szövetsége, SINOSZ*). In its report on the first quarter of 2013, the authority found that the accessibility of television programming had improved with an increasing number of subtitled programmes, although some subtitles remained of poor quality. It also criticised broadcasters for delays in implementing solutions to problems signalled in earlier reports.

For more information, see: National Media and Infocommunications Authority (Nemzeti Média és Hírközlési Hatóság) (2013) *Supervision of the accessibility requirements supporting the inclusion of persons living with hearing impairment, First quarter of 2013* (A hallási fogyatékkal élők befogadását segítő feliratozással kapcsolatos kívánalmak ellenőrzése, 2013. I. negyedév), available at: http://mediatanacs.hu/dokumentum/159227/akadalymentesített_musorok_negyedevés_2013.pdf

¹⁸⁹ Available at: www.eaccessibility-monitoring.eu/BSC/.

Are political parties' manifestos and campaign materials accessible?

Manifestos and other campaign material inform the electorate about different parties' policy priorities and can be an important element in deciding how to vote. Accessibility can be achieved by ensuring that manifestos are available in alternative formats suitable for people with different types of impairment, for example large print, Braille, easy-to-read or audio versions. The independence of political parties means that they do not necessarily carry this formal obligation unless national legislation so requires.

The analysis indicates a lack of available data from which to make comparisons between Member States about the number of political parties that make their manifestos and campaign material accessible for persons with disabilities. Levels of accessibility vary between different parties in the same country and according to the types of information they provide. The following map presents data on the known availability of party political campaign material in accessible formats during the most recent elections.

The FRA research found evidence of accessible party political manifestos produced in 14 of the 28 EU Member States. In **Spain**, for example, several parties offered electoral programmes for the general elections adapted for persons with intellectual disabilities and, for the regional elections, one party offered its programme in Braille and on a CD including audio description, subtitles and Catalan sign language interpretation.¹⁹⁰ In **Finland**, almost half of political parties offered their campaign material for the 2009 European Parliament elections in Braille.

Data from **Bulgaria, Croatia, Cyprus, Greece, Italy, Lithuania, Luxembourg, Poland** and **Slovenia** indicate that no political parties produced their manifestos in accessible formats for the last elections. In the remaining Member States, no data were identified regarding whether political parties had produced their campaign material in alternative formats during the most recent elections.

Promising practice

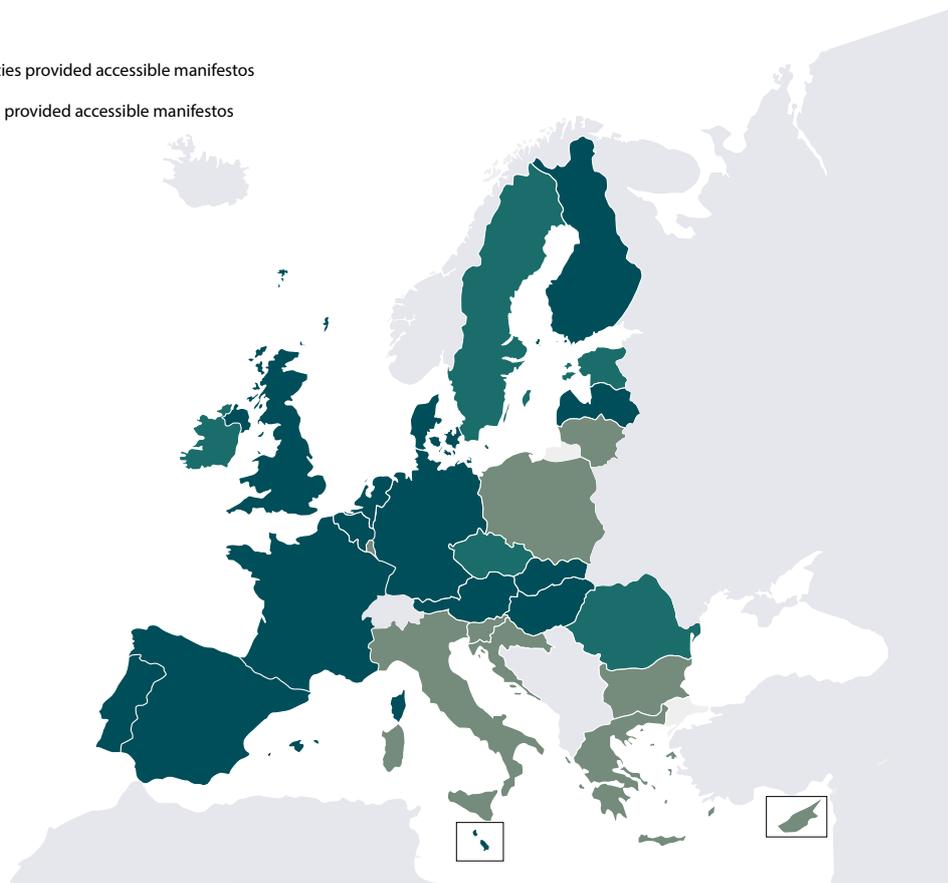
Improving the accessibility of campaign material

The European Parliament Information Office sought to increase knowledge about accessible information provision. It organised a seminar in **Ireland** in December 2013, targeted at those with

¹⁹⁰ Available at: www.cadavotovale.es/programa_lectura_facil.html and www.psoe.es/saladeprensa/docs/617003/page/programa-adaptado-para-las-personas-con-discapacidad-intelectual.html.

Figure 40: Were some political party manifestos provided in accessible formats during the most recent elections?

- Some political parties provided accessible manifestos
- No political parties provided accessible manifestos
- No information



Source: FRA, 2014

responsibility for communicating political messages to voters, including candidates for election, party members and those commissioning print, web-based or media materials. The seminar, Reaching voters with disabilities, included input from the National Disability Authority and NGOs. The key presentations were published on the Information Office website.

For more information, see: www.europarl.ie/en/at_your_service/events_activities/events_activities_2013/reaching_voters_with_disabilities.eu/portal/en/legal-notice;jsessionid=16027ADDCF6913382A12AD4A79FC32D8

In the run-up to the 2013 **German** parliamentary elections, all parties took steps to make their manifestos more accessible. They¹⁹¹ provided shortened versions of their election manifestos in an easy

language and audio-format.¹⁹² Some published their election programmes as digital accessible information system audio-books.¹⁹³ Several parties, besides translating their programmes into other spoken languages, offered German Sign Language¹⁹⁴ videos on their websites.

For the easy-to-read election manifestos, see: www.bundestagswahl-bw.de/leicht.html

192 See, for example: www.spd.de/95466/regierungsprogramm_2013_2017.html, www.die-linke.de/wahlen/archiv/archiv-fruehere-wahlprogramme/wahlprogramm-2013/download-als-pdf-und-doc-kurzfassung-in-fremdsprachen-leichter-und-gebaerdensprache-audio.

193 See, for example: www.gruene.de/partei/gruenes-wahlprogramm-2013.html, <http://flaschenpost.piratenpartei.de/2013/09/02/das-wahlprogramm-als-daisy-hoerbuch>.

194 See, for example: www.cdu.de/artikel/regierungsprogramm-gebaerdensprache-dgs, www.piraten-bielefeld.de/2013/09/18/unser-wahlprogramm-in-gebaerdensprache.

191 Brettschneider, F. and Haseloff A. (2013).

Conclusions

The picture painted by the outcome indicators shows that progress in realising the right to political participation for persons with disabilities remains fragmented. In many EU Member States, both the physical locations where elections take place and the information which underpins involvement in political life remain inaccessible.

Many of these outcome indicators, however, could not be populated due to a lack of data. Even where data were available, they were not comparable due to different data collection methodologies and a lack of consistent criteria for determining accessibility. In many cases, this means that the indicator highlights where data are available, instead of shedding

light on the accessibility of elections for persons with disabilities.

Furthermore, with very little data available on the numbers of persons with disabilities elected to national parliaments and municipal governments, it remains difficult to assess whether persons with disabilities are able to take advantage of their right to be elected and play a more active role in the political process.

The lack of data puts the onus on the EU institutions and Member States both to collect additional data and to refine methodologies that enables the collection of reliable and comparable data on the political participation outcomes of persons with disabilities. These data will in turn provide the relevant public authorities with a means to systematically assess the implementation of Article 29 of the CRPD.



Conclusions

EU Member States have made significant progress in integrating the right to political participation of persons with disabilities into their national legal and policy frameworks. All but three Member States have ratified the CRPD, with relatively few reservations or declarations to key provisions. The remaining three Member States have signed the convention and are taking steps towards ratification. In addition, a number of Member States have developed national strategies or action plans to implement the CRPD which include the right to political participation. The UN treaty body that monitors the CRPD, the Committee on the Rights of Persons with Disabilities, will formally assess progress in implementing the convention in the EU Member States which have ratified the CRPD, and in the EU itself, through concluding observations to state parties.

The analysis of the indicators selected to assess how the right of persons with disabilities to political participation is fulfilled shows that overall persons with disabilities are active citizens keen to be engaged in the political life of their communities. They vote in elections, and participate in other types of political activity in large numbers, for example by being members of political parties, attending political meetings and contacting elected officials. Providing more accessible information and processes, as well as better support and reasonable accommodation when required can further improve their participation.

Despite these encouraging signs, EU Member States still need to address significant challenges to the realisation of the right to political participation for persons with disabilities. These include legal obstacles, such as restrictions on the right to vote for some persons with disabilities, and gaps between the promise of law and policy and their implementation on the ground.

Addressing these challenges as soon as possible is essential for increasing the legitimacy of public institutions and creating more equitable and inclusive societies in which all members can participate fully.

Persons with different forms of impairment are affected in different ways. Therefore specific measures should be developed addressing different needs in close cooperation with DPOs. Persons with more severe impairments, as well as people with particular types of impairment – for example, persons with intellectual disabilities – are often some of the most isolated and excluded from political and social life. Ensuring that they are also able to play a full part in the political process presents a particular challenge to EU Member States that should be addressed.

An important outcome of this research is the identification of specific issues in regard to data availability and comparability: first, there is a lack of systematic data collection; second, there is an absence of standards and guidelines for measuring accessibility, especially in a way that can yield comparable results across the EU; and third, there are concerns about the ability of methodologies currently employed to adequately capture and reflect the experiences of persons with disabilities.

The development, implementation and monitoring of effective legal and policy measures require reliable and accurate data. It is therefore necessary to improve the existing methodological arsenal and provide adequate resources to ensure the provision of targeted, comparable data broken down by age, gender and severity of impairment that can accurately and reliably populate indicators showing how the rights of persons with disabilities are fulfilled.

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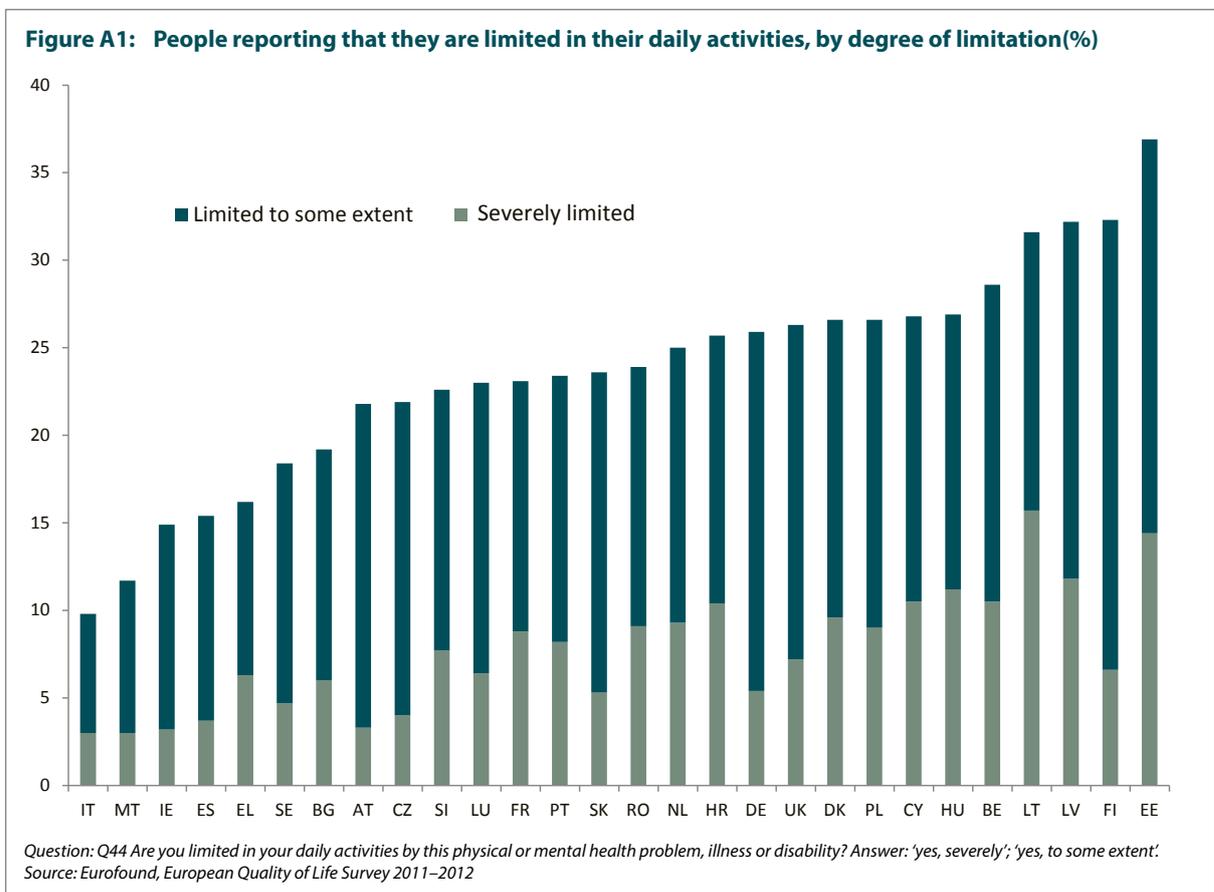


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Annex 1: Population of persons with disabilities in the EU

One quarter (26 %) of adults in the EU Member States say that they have some kind of impairment or activity limitation arising from a health condition, illness, mental health problem or disability, according to data from the European Quality of Life Survey.¹ People with disabilities are therefore a major and potentially influential constituency in the political process.

As would be expected with such a large section of the population, the group are extremely diverse. Within this population, gender and age, as well as severity of impairment, are important differences. People who report severe limitations in their daily activities are likely to be those most hampered in realising their full participation rights in the political process. Though smaller (approximately 7.5 % of the population, or 1 in 13), this group's needs will often be significant, particularly with regard to the accessibility of the environment and information.²

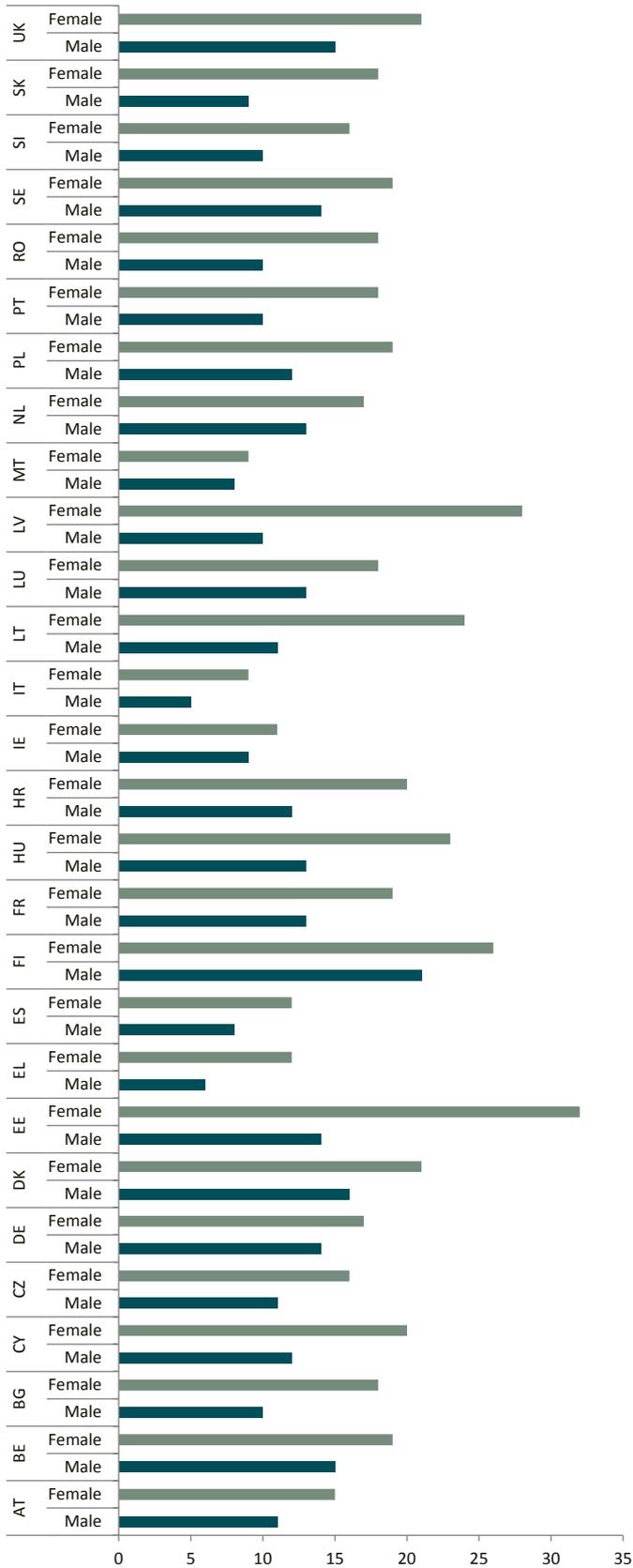


In every EU Member State, the proportion of women with disabilities considerably outstrips that of men. This is largely explained by the heavy weighting of functional impairment towards later life. In the EU, the majority of people with disabilities are older people above normal working age, and this proportion will increase if current demographic trends continue.

Without attention to the participation of older voters and women voters, and to the needs of voters with more severe impairments, political processes are unlikely to become fully accessible to people with disabilities.

1 Eurofound (2013).
2 *Ibid.*

Figure A2: People reporting that they are limited in their daily



Question: Q43 Do you have any chronic (long-standing) physical or mental health problem, illness or disability? 'Answer: Yes'; Q44 Are you limited in your daily activities by this physical or mental health problem, illness or disability? Answer: 'yes, severely'; 'yes, to some extent'.
 Source: Eurofound, European Quality of Life Survey 2011–2012

Annex 2: Election legislation in the EU

Article 40 of the Charter of Fundamental Rights of the EU sets out the right of every EU citizen to vote and to stand as a candidate in municipal elections in the Member State in which he or she resides, under the same conditions as nationals of that state. Table A1 sets out the 'basic local government units'. It is elections to these units which are covered by Article 40 of the Charter and Article 2 (1) (a) of the Council Directive 94/80/EC laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections.

Table A1: Basic local government units, by EU Member State

EU Member State	Basic local government unit
AT	<i>Gemeinden, Bezirke in der Stadt Wien</i>
BE	<i>commune/gemeente/Gemeinde</i>
BG	<i>община/кметство/Общината е основната административно-териториална единица, в която се осъществява местното самоуправление</i>
CY	<i>δήμος, κοινότητα</i>
CZ	<i>obec, městský obvod nebo městská část územně členěného statutárního města, městská část hlavního města Prahy</i>
DE	<i>kreisfreie Stadt bzw. Stadtkreis; Kreis; Gemeinde, Bezirk in der Freien und Hansestadt Hamburg und im Land Berlin; Stadtgemeinde Bremen in der Freien Hansestadt Bremen, Stadt-, Gemeinde-, oder Ortsbezirke bzw. Ortschaften</i>
DK	<i>amtskommune, Københavns kommune, Frederiksberg kommune, primærkommune</i>
EE	<i>vald, linn</i>
EL	<i>δήμος</i>
ES	<i>municipio, entidad de ámbito territorial inferior al municipal</i>
FI	<i>kunta, kommun, kommun på Åland</i>
FR	<i>commune, arrondissement dans les villes déterminées par la législation interne, section de commune</i>
HR	<i>općina, grad, županija</i>
HU	<i>települési önkormányzat; község, nagyközség, város, megyei jogú város, főváros, főváros kerületei; területi önkormányzat; megye</i>
IE	City Council, County Council, Borough Council, Town Council
IT	<i>comune, circoscrizione</i>
LT	<i>Savivaldybė</i>
LU	<i>commune</i>
LV	<i>novads, republikas pilsēta</i>
MT	<i>Kunsill Lokali</i>
NL	<i>gemeente, deelgemeente</i>
PL	<i>gmina</i>
PT	<i>município, freguesia</i>
RO	<i>comuna, orașul, municipiul, sectorul (numai în municipiul București) și județul,</i>
SI	<i>občina</i>
SK	<i>samospráva obce: obec, mesto, hlavné mesto Slovenskej republiky Bratislava, mesto Košice, mestská časť hlavného mesta Slovenskej republiky Bratislavy, mestská časť mesta Košice; samospráva vyššieho územného celku: samosprávny kraj</i>
SE	<i>kommuner, landsting</i>
UK	<i>counties in England; counties, county boroughs and communities in Wales; regions and islands in Scotland; districts in England, Scotland and Northern Ireland; London boroughs; parishes in England; the City of London in relation to ward elections for common councilmen</i>

Source: [Annex 1](#) to Council Directive 2013/19/EU of 13 May 2013 adapting Directive 94/80/EC by reason of the accession of the Republic of Croatia



Table A2 presents an overview of the main pieces of legislation governing the administration and organisation of European Parliament and municipal elections in each of the 28 EU Member States. It also highlights whether the same legislation applies to all types of elections – national and local elections as well as European Parliament elections – or whether different regulations govern each type of election.

Whether the same provisions apply to all types of election is also significant in cases of electoral reform. For example, while legal reforms have ended the automatic prohibition on voting for people deprived of legal capacity in Croatia and Latvia, the laws regulating different types of elections are being updated in stages. Until each piece of electoral legislation is amended, persons deprived of legal capacity may still be barred from voting in practice (see indicator 2.2.1.).

In general, the information presented in this report has focused on elections to the European Parliament and municipal elections, given their particular status under EU law. Many of the findings, however, are relevant across different types of elections, particularly in those cases where an umbrella piece of legislation applies to elections at all levels.

Table A2: Legislation applying to European Parliament and municipal elections, by EU Member State

EU Member State	Main national legislation applying to European Parliament elections	Legislation applying to municipal elections	Same law applies to all elections	Different laws govern different elections
AT	Federal Act on the Election of the members of the European Parliament (<i>Bundesgesetz über die Wahl der Mitglieder des Europäischen Parlaments – Europawahlordnung, EuWO</i>) BGBl No. 117/1996, BGBl 12/2012	Burgenland: Act from 7 May 1992 on the election of municipal authorities (<i>Gesetz vom 7. Mai 1992 über die Wahl der Gemeindeorgane – Gemeindewahlordnung 1992, GemWO 1992</i>) LGBl No. 54/1992, Carinthia: Act on the election of the municipal council and the mayor (<i>Gemeinderats- und Bürgermeisterwahlordnung 2002, K-GBWO</i>) LGBl No. 32/2002, Lower Austria: Act on the election of municipalities in Lower Austria 1994 (<i>NÖ Gemeinderatswahlordnung 1994, NÖ GRWO 1994</i>) LGBl No. 112/1994, Upper Austria: Provincial Act on the election of the members of the municipal council and the mayor (<i>Landesgesetz vom 4. Juli 1996 über die Wahl der Mitglieder des Gemeinderates und des Bürgermeisters, OÖ Kommunalwahlordnung</i>) LGBl No. 81/1996, Salzburg: Act on the election of municipalities of Salzburg 1998 (<i>Salzburger Gemeindewahlordnung 1998</i>) LGBl No. 117/1998 Styria: Act from 21 April 2009 on the election of municipalities (<i>Gesetz vom 21. April 2009 über die Gemeindewahlordnung 2009, GWO</i>) LGBl No. 59/2009, Act from 19 June 2012 on the election of the municipality of the Styrian Capital Graz (<i>Gesetz vom 19. Juni 2012, mit dem eine Gemeindewahlordnung für die Landeshauptstadt Graz beschlossen wird, Gemeindewahlordnung Graz</i>) LGBl No. 86/2012, Tyrol: Act on the election of municipalities of the province of Tyrol (<i>Tiroler Gemeindewahlordnung 1994</i>) LGBl No. 88/1994, Vienna: Act on the election of the municipality of the city of Vienna (<i>Gesetz über die Gemeindewahlordnung der Stadt Wien, Wiener Gemeindewahlordnung 1996, GWO 1996</i>) LGBl No. 16/1996, Vorarlberg: Act on the election of the municipal council and the mayor (<i>Gesetz über das Verfahren bei Wahlen in die Gemeindevertretung und des Bürgermeisters, Gemeindewahlgesetz</i>) LGBl No. 30/1999.		✓

EU Member State	Main national legislation applying to European Parliament elections	Legislation applying to municipal elections	Same law applies to all elections	Different laws govern different elections
BE	<p>Belgian Constitution (<i>La Constitution belge; De Belgische Grondwet</i>)</p> <p>Electoral Code (<i>Le Code électoral; Algemeen Kieswetboek</i>)</p> <p>Law of 23 March 1989 on the European Parliament election (<i>La loi du 23 mars 1989 relative à l'élection du parlement européen; wet van 23 maart 1989 betreffende de verkiezing van het Europese parlement</i>)</p>	<p>Federal Municipal electoral Law (<i>La loi électorale communale du 4 août 1932; Gemeentekieswet</i>)</p> <p>Brussels Electoral Code (<i>Le Code électoral communal Bruxellois; Brussel Gemeetelijk Kieswetboek</i>)</p> <p>Walloon Code of local democracy and decentralisation (<i>Code de la démocratie locale et de la décentralisation</i>)</p> <p>Flemish local and provincial electoral Decree (<i>Lokaal en Provinciaal Kiesdecreet</i>)</p>		✓
BG	Electoral Code (<i>Изборен кодекс</i>)	Electoral Code (<i>Изборен кодекс</i>)	✓	
CY	Election of the members of the European parliament Law 10(1)2004, (<i>Ο περί της εκλογής των μελών του Ευρωπαϊκού Κοινοβουλίου Νόμος</i>)	The Municipal and Community Elections (National of Other Member States) Law 98(I)/2004 (<i>Ο Περί Δημοτικών και Κοινοτικών Εκλογών (Υπήκοοι Άλλων Κρατών Μελών) Νόμος του 2004</i>)		✓
CZ	Act on Elections to the European Parliament and on Change of Selected Acts of Law (<i>Zákon o volbách do Evropského parlamentu a o změně některých zákonů</i>)	Act on Elections to Representative Bodies of Municipalities and on Amendments to Certain Other Laws (<i>Zákon o volbách do zastupitelstev obcí a o změně některých zákonů</i>)		✓
DE	<p>European Elections Law (<i>Europawahlgesetz, EuWG</i>)</p> <p>European Elections Ordinance (<i>Europawahlordnung, EuWO</i>)</p> <p>Members of the European Parliament Act (<i>Europaabgeordneten gesetz, EuAbgG</i>)</p>	The municipal elections acts of the 16 individual states apply.		✓
DK	The Act on Election of Danish Members to the European Parliament (<i>Lov om valg af danske medlemmer til Europa-Parlamentet</i>)	The Act on Municipality and Regional Elections (<i>Lov om kommunale og regionale valg</i>)		✓
EE	European Parliament Election Act (<i>Euroopa Parlamendi valimise seadus</i>)	Local Government Council Election Act (<i>Kohaliku omavalitsuse volikogu valimise seadus</i>)		✓
EL	Law 2196/1994 (OG A' 41)	Law 3852/2010 New architecture of local administration and decentralised administration – Programme Kallikrates (<i>Νέα Αρχιτεκτονική της Αυτοδιοίκησης και της Αποκεντρωμένης Διοίκησης – Πρόγραμμα Καλλικράτης</i>)		✓



EU Member State	Main national legislation applying to European Parliament elections	Legislation applying to municipal elections	Same law applies to all elections	Different laws govern different elections
ES	Organic Act 5/1985, of 19 June, on the general electoral system (<i>Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general</i>)	Organic Act 5/1985, of 19 June, on the general electoral system (<i>Ley Orgánica 5/1985, de 19 de junio, del régimen electoral general</i>)		✓
FI	The Election Act (<i>Vaalilaki/Vallag</i>) (714/1998)	The Election Act (<i>Vaalilaki/Vallag</i>) (714/1998) The Local Government Act (<i>Kuntalaki/Kommunallag</i>) (365/1995)	✓	
FR	The Electoral Code (<i>Code Electoral</i>) Law No. 77-729 about election of the Members of European Parliament (<i>Loi relative à l'élection des représentants au Parlement européen</i>)	The Electoral Code (<i>Code Electoral</i>)	✓	
HR	Act on the Elections of Representatives from the Republic of Croatia to the European Parliament (<i>Zakon o izborima zastupnika iz Republike Hrvatske u Europski parlament</i>)	Act on Local Elections (<i>Zakon o lokalnim izborima</i>)		✓
HU	Act CXIII of 2003 on the Election of Members of the European Parliament (<i>az Európai Parlament tagjainak választásáról szóló 2003. évi CXIII. törvény</i>)	Act L of 2010 on the Election of Local Municipality Representatives and Mayors (<i>a helyi önkormányzati képviselők és polgármesterek választásáról szóló 2010. évi L. törvény</i>)		✓
IE	European Parliament Elections Act 1997	Local Elections Regulations 1995 (as amended)		✓
IT	Italian Constitution, Art. 48 (<i>Costituzione della Repubblica Italiana, Art. 48</i>) Election of European Parliament Members Law 24.01.1979 No. 18 and subsequent modifications (Legge 24 gennaio 1979, n. 18 Elezione dei membri del Parlamento europeo spettanti all'Italia e successive modificazioni) A full list of relevant legislation is produced by the Ministry of the Interior	Italian Constitution, Art. 48 (<i>Costituzione della Repubblica Italiana, Art. 48</i>) Presidential Decree No. 570/ 1960 consolidated Law for the composition and election of the municipal government (<i>Decreto del Presidente della Repubblica 16 maggio 1960, n. 570 Testo unico delle leggi per la composizione e la elezione degli organi delle Amministrazioni comunali</i>) A full list of legislation relevant for municipal elections (<i>elezioni amministrative</i>) is produced by the Ministry of the Interior		✓
LT	The Law on Elections to the European Parliament (<i>Lietuvos Respublikos rinkimų į Europos Parlamentą įstatymas</i>) No. IX-1837	The Law on Elections to Municipal Councils (<i>Lietuvos Respublikos savivaldybių tarybų rinkimų įstatymas</i>) No. I-532		✓

EU Member State	Main national legislation applying to European Parliament elections	Legislation applying to municipal elections	Same law applies to all elections	Different laws govern different elections
LU	Electoral act of 11 February 2013 (<i>Loi électorale, texte coordonné</i>)	Electoral act of 11 February 2013 (<i>Loi électorale, texte coordonné</i>)	✓	
LV	Elections to the European Parliament Law 29 January 2004 (<i>Eiropas Parlamenta vēlēšanu likums</i>)	Law on Elections of the Republic City Council and Municipality Council 13 January 2013 (<i>Republikas pilsētas domes un novada domes vēlēšanu likums</i>)		✓
MT	European Parliament Elections Act	Local Councils Act		✓
NL	Electoral Code 1989 (<i>Kieswet 1989</i>)	Electoral Code 1989 (<i>Kieswet 1989</i>)	✓	
PL	Act of 5 January 2011 Electoral Code (<i>Ustawa z dnia 5 stycznia 2011 Kodeks wyborczy</i>)	Act of 5 January 2011 Electoral Code (<i>Ustawa z dnia 5 stycznia 2011 Kodeks wyborczy</i>)	✓	
PT	Electoral Law to European Parliament (<i>Lei Eleitoral do Parlamento Europeu</i>)	Electoral Law to Municipal Elections (<i>Lei Eleitoral dos Órgãos das Autarquias Locais</i>)		✓
RO	Law No. 33 of 16 of January 2007 on the organisation and implementation of elections for the European Parliament (<i>Lege nr. 33 din 16 ianuarie 2007 privind organizarea și desfășurarea alegerilor pentru Parlamentul European</i>)	Law No. 35 of 13 of March 2008 on elections for the Chamber of Deputies and the Senate and for the amendment and completion of Law No. 67/2004 for the election for local authorities, of the Law on local public administration No. 215/2001 and of the Law No. 393/2004 on the Status of local elected officials (<i>Lege nr. 35 din 13 martie 2008 pentru alegerea Camerei Deputaților și a Senatului și pentru modificarea și completarea Legii nr 67/2004 pentru alegerea autorităților administrației publice locale, a Legii administrației publice locale nr 215/2001 și a Legii nr. 393/2004 privind Statutul aleșilor locali</i>)		✓
SE	The Election Act 2005:837 (<i>Vallagen, 2005:837</i>)	The Election Act 2005:837 (<i>Vallagen, 2005:837</i>)	✓	
SI	The Election of Slovenian members to the European Parliament Act (<i>Zakon o volitvah poslancev iz Republike Slovenije v Evropski parlament, ZVPEP</i>)	The Local elections Act (<i>Zakon o lokalnih volitvah, ZLV</i>)		✓
SK	Law No. 331/2003 Coll. on Elections to the European Parliament (<i>Zákon č. 331/2003 Z.z. o volbách do Európskeho parlamentu</i>)	Law No. 346/1990 Coll. on Elections to the Municipal Bodies (<i>Zákon č. 346/1990 Zb. o volbách do orgánov samosprávy obcí</i>)		✓
UK	European Parliamentary Elections Act 2002 European Parliament (Representation) Act 2003 European Parliamentary and Local Elections (Pilots) Act 2004 European Union Act 2011	A full list of relevant legislation is produced by the Electoral Commission.		✓

Source: FRA, 2014

Annex 3: Overview of cases related to the right to political participation of persons with disabilities

Table A3 gives a brief description of cases concerning the right to political participation of persons with disabilities considered by national judicial redress mechanisms over the period 2000 to 2013, as identified by FRA research (see indicator 3.2.2). This list is likely not to be exhaustive, as the scope of the report largely limited research to higher level courts. Nonetheless, it highlights that issues related to legal capacity and accessibility are those most often brought before judicial redress mechanisms.

Table A3: Cases related to the right to political participation of persons with disabilities considered by national judicial complaints mechanisms (2000–2013), by EU Member State

EU Member State	Case	Brief description
CZ	The Constitutional Court of the Czech Republic (Ústavní soud České republiky), N 223/39 SbNU 353, 21 December 2005	The automatic deprivation of the right to vote for people under guardianship was challenged before the Constitutional Court in 2006. The Constitutional Court instructed the courts to “consider whether the specific individual is capable of understanding the meaning, purpose and consequences of elections” before deciding whether to deprive an individual of the right to vote.
	The Supreme Administrative Court, 6/2009-22, 1 July 2009	A decision of the Supreme Administrative Court in 2009 states that long-term care facilities have an obligation to ask their clients or patients if they wish to be included in the special voter registry allowing them to vote in a different electoral district from their home district.
	Constitutional Court of the Czech Republic, IV.ÚS 3102/08, decision 12 July 2010	A decision of the Constitutional Court in 2010 urged municipal courts not to overuse the institution of legal incapacity. It also reiterated that when deciding on full or partial deprivation of an individual’s legal capacity, courts must consider separately whether the individual is capable of understanding the meaning, purpose and consequences of voting and that the judgment of depriving an individual of the right to vote must be reasoned.
ES	High Court of Catalonia, Administrative Disputes Division, 5th Section, Judgment No. 100/2007 of 6 February 2007 (<i>Tribunal Superior de Justicia de Cataluña, Sala de lo Contencioso-administrativo, Sección 5ª, Sentencia nº 100/2007, de 6 Feb. 2007</i>).	The High Court of Catalonia, in a 2007 judgment, ruled on the constitutionality of Article 87 of Organic Act 5/1985 on the general electoral system, concerning the right to vote of persons with visual impairments. The court found that not offering the possibility for blind people to vote using Braille did not breach the constitution.
IT	Council of State (<i>Consiglio di Stato</i>), Decision No. 3360, V Section, 24 May 2004	A Council of State decision from 2004 denies the right to vote to those affected by “cognitive temporal and spatial deficit”, whose intellectual disabilities prevent the formation of will and their ability to express their vote in an autonomous way.
	Council of State (<i>Consiglio di Stato</i>), Decision No. 3683, V Section, 12 June 2009	A Council of State decision from 2009 provides that the president of a polling station can disregard a medical certificate in case of clear evidence that the disability reported does not reflect the actual condition of the voter.

EU Member State	Case	Brief description
MT	<i>Tirchett Francis Pen Et v. Kummissjunarju Elettorali Principali Et</i> , filed in First Hall Civil Court, decided 26 June 2006.	Prior to the 2008 elections, the Society of the Blind filed a case with a Civil Court claiming that blind persons have the right to vote in secret rather than with the assistance of an assistant electoral commissioners. The court decided against the complainants on the grounds of lack of jurisdiction for such cases.
NL	<i>Council of State (Raad van State)</i> , Judgment 200300512/1, 29 October 2003	A Council of State Administrative division concluded in a 2003 case concerning a person who was deprived of their legal capacity and thus barred from participating in elections, that such exclusion from electoral rights could, in specific cases, be an infringement of the International Covenant on Civil and Political Rights (ICCPR). The Council did not approve the appeal of the person in question, since it considered it a responsibility of the legislative bodies to improve the situation, and not the judicial branch. The case resulted in a change to the constitution, removing the exclusion of people placed under curatorship from the right to vote.
PL	Supreme Court (<i>Sąd Najwyższy</i>), decision No. III SW 54/00 of 25 October 2000	A Supreme Court decision from 2000, regarding accessibility of polling stations in the Polish consulate in Rome found that not providing persons with disabilities access to polling stations constitutes a “flagrant violation” of the Act of Presidential Elections. The court underlined that public authorities are obliged to ensure that all entitled citizens are able to realise their right to vote.
	Supreme Court (<i>Sąd Najwyższy</i>), decision No. III SW 17/09 of 8 July 2009	In 2009 the Supreme Court considered a claim that during the 2009 European Parliament elections blind persons were deprived of the possibility to cast their vote in secret and without the presence of another person. The court rejected the claim as unsubstantiated explaining in its justification that the grounds for submitting electoral protests are limited to crimes against elections or violations of the provisions of the Act on Elections to the European Parliament. Furthermore, the court stated that it is not entitled to shape the rules regarding accessibility of voting for persons with visual impairments.



EU Member State	Case	Brief description
SI	Slovenia Constitutional Court (<i>Ustavno sodišče</i>), UI-446/02, 10 July 2003	<p>In 2003 the Constitutional Court considered a case challenging the provisions of the then elections-related legislation which automatically excluded persons deprived of legal capacity from the right to vote.</p> <p>The court ruled that the criteria under which an individual could be deprived of legal capacity disproportionately interfered with the right to vote. The court found that an individual's right to vote should only be restricted in cases when such individuals could not understand the meaning and effect of elections. In 2006 and 2007, respectively, the amendments to the National Assembly Elections Act and Local elections Act were adopted to accommodate the decision of the Constitutional Court.</p>
	Slovenia, Constitutional Court (<i>Ustavno sodišče</i>), U I-25/10, 21 September 2010	<p>The Constitutional Court, in a 2010 case, considered a complaint challenging the requirement to submit an application for an accessible polling station three days before elections. Making reference to the provisions of the CRPD, the claimant argued that the realisation of his right to vote relied on his submission of an application to the competent electoral commission to vote at an accessible polling station, representing discrimination on the ground of disability. He further stated that application form was not available in an accessible format.</p> <p>The Court rejected the complaint as unfounded, ruling that the application procedure for voting at an accessible polling station represented a reasonable requirement enabling electoral bodies to organise voting process in a smooth manner.</p> <p>However, the court provided important clarifications regarding the implementation of electoral legislation. By law, local electoral commissions officially designate at least one polling station as accessible for persons with disabilities, that is with no built-environment barriers preventing persons with disabilities from casting their vote. The Constitutional Court instructed the relevant electoral bodies not to follow this minimum requirement, but to formally determine as accessible all polling stations in a specific electoral district which have no built-environment barriers preventing persons with disabilities from voting.</p>

Source: FRA, 2014

Table A4 presents an overview, based on FRA research, of cases concerning the right to political participation of persons with disabilities considered by non-judicial redress mechanisms between 2000 and 2013 (see indicator 3.2.3). It again highlights that most cases relate to legal capacity and accessibility of the electoral process.

Table A4: Cases related to the right to political participation of persons with disabilities considered by national non-judicial complaints mechanisms (2000–2013), by EU Member State

EU Member State	Case	Brief description
ES	Case No. 330/159; Case No. 330/157	In two identical decisions in 2011, the Central Electoral Board found that making ballot papers available in Braille during local elections would entail considerable complications and costs, and that the option of blind persons being assisted during voting was sufficient. In total there were eleven rulings regarding people with visual impairments, all but two before 2007. In this respect and in compliance of the referred legal provision, the District Electoral Board should have requested the Government's Sub-delegation 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.
	Case No. 330/166	In 2011 the central board considered the complaint of an individual who was denied membership of an election committee due to being deaf although he had requested an interpreter. The central board found that the person would have been entitled to an interpreter, but the request must be filed in advance in line with the deadlines set out in the relevant legislation.
HU	Written information provided by the Equal Treatment Authority.	In 2011 an NGO initiated an <i>action popularis</i> case against a local municipality before the Equal Treatment Authority. The NGO claimed that a local polling station was not accessible for persons with disability. The case ended in a friendly settlement that provided that the polling station would be made accessible.
LT	The Seimas Ombudsmen's Office of the Republic of Lithuania (2012), Note of 8 November 2012 No. 4D2012/1-1531	In 2012 one complaint was filed with the parliamentary (<i>Seimas</i>) Ombudsman's office by a person who had not received information on where and when to vote in the national elections. The complaint was not addressed as it should have been filed with the polling district committee in the voting district.
MT	The Ombudsman's Office, 22 August 2013 Information Letter No. 1-5/228	In 2013 the Deaf Persons Association filed a complaint with the National Commission on Persons with Disability about the lack of Maltese sign language interpretation on the national television station during election broadcasts. As a result of the complaint, the Broadcasting Authority included Maltese sign language interpretation in its own broadcasts on the elections.
SE	Cases ANM 2009/1130, ANM 2009/1084, ANM 2009/1676, ANM 2009/1363	In 2009, the Equality Ombudsman received four complaints about the lack of accessibility of polling stations for persons using wheelchairs during the European Parliament elections of 2009. The Ombudsman investigation confirmed that premises that were not accessible were used in four municipalities and argued that, based on the results of the investigation and in light of the requirements of the Election Act and CRPD, the cases should be forwarded to the relevant authorities.



EU Member State	Case	Brief description
SI	Human Rights Ombudsman, Opinion 1.5-6/2010	In 2010, parents of a person without legal capacity sought the opinion of the Human Rights Ombudsman concerning a court decision to deprive her of the right to vote. In the Ombudsman's opinion the complaint was justified and the court decision was not issued in accordance with law, as the court did not establish whether the individual was capable of understanding the meaning, purpose and effect of elections.
	Human Rights Ombudsman, Opinion 1.5-9/2012	In 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 stairs, despite it having been put on the list of accessible polling stations. The affected individual also lodged an objection with the National Electoral Commission. As the Ombudsman judged that the complaint could be justified, it addressed a request for clarification to the Commission. The commission provided a response from the responsible district electoral commission that the affected individual was allowed to vote at home. The latter also promised to immediately take steps to ensure the accessibility of the polling station.
	Advocate of the Principle of Equality (<i>Zagovornik načela enakosti</i>), case 0700-2/2013/1, before 0921-87/2011-UEM, 12 March 2013.	The Advocate of the Principle of Equality received a complaint in 2011 concerning the lack of information provided by the commission on how people with disabilities could exercise their right to vote. In the Advocate's opinion, the material provided was not accessible to persons with disabilities, which was found to amount to indirect discrimination on the ground of disability.

Source: FRA, 2014

Annex 4: Reporting status of EU Member States to the CRPD Committee

The Committee on the Rights of Persons with Disabilities has the task of monitoring the implementation of the CRPD by state parties to the convention. All state parties are obliged to submit an initial report to the committee on how CRPD rights are being implemented within two years of ratifying the convention; afterwards, reports must be submitted every four years. The CRPD committee examines each report and publishes concluding observations which include suggestions and recommendations to the state parties.

Table A5 shows the current status of the EU Member States and the EU itself with regard to their reporting obligations to the CRPD committee.

Table A5: EU Member States and EU reporting status to the CRPD, by EU Member State

EU Member State	State party deadline to submit initial report	State party submits initial report	CRPD committee examines state party report	CRPD committee publishes concluding observations
AT	26.10.2010	5.10.2010	2.9.2013	30.9.2013
BE	1.8.2011	28.7.2011	15.9.2014	
BG	23.4.2014			
CY	27.7.2013	2.8.2013		
CZ	28.10.2011	28.10.2011		
DE	26.3.2011	19.9.2011	15.9.2014	
DK	23.8.2011	24.8.2011	15.9.2014	
EE	31.5.2014			
EL	25.5.2014			
ES	3.6.2010	1.7.2010	19.9.2011	19.10.2011
FR	18.3.2012			
HR	14.9.2010	26.10.2011		
HU	3.6.2010	18.10.2010	17.9.2012	22.10.2012
IT	15.6.2011	22.1.2013		
LT	18.9.2012	19.9.2012		
LU	26.10.2013			
LV	1.4.2012			
MT	10.10.2014			
PL	25.9.2014			
PT	23.10.2011	8.8.2012		
RO	2.3.2013			
SE	14.1.2011	3.2.2011	21.3.2014	
SI	3.6.2010			
SK	26.5.2012	26.6.2012		
UK	8.7.2011	24.11.2011		
EU	23.12.2012			

Source: OHCHR



A great deal of information on the European Union Agency for Fundamental Rights is available on the Internet. It can be accessed through the FRA website at fra.europa.eu.

These five FRA reports provide further analysis of issues relating to the rights of persons with disabilities, in particular of persons with mental health problems and of persons with intellectual disabilities.



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HELPING TO MAKE FUNDAMENTAL RIGHTS A REALITY FOR EVERYONE IN THE EUROPEAN UNION

The opportunity to be involved in political life, whether by standing for elected office, joining a political party, or following political news stories in the media, is at the heart of what it means to live in a democratic society. The report analyses data on the situation of political participation of persons with disabilities collected from across the 28 European Union (EU) Member States by the European Union Agency for Fundamental Rights (FRA) and the European Commission-funded Academic Network of European Disability Experts (ANED). The human rights indicators presented in the report show that legal and administrative barriers, inaccessible processes and information, and a lack of awareness about political rights can deny persons with disabilities the opportunity to participate in the political lives of their communities. The research also reveals the absence of reliable and comparable data about persons with disabilities' experiences of taking part in elections in the EU. Addressing these challenges as soon as possible is essential for increasing the legitimacy of public institutions and creating more equitable and inclusive societies in which all members can participate fully.

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