The right to political participation of persons with disabilities ahead of the 2024 European Parliament elections

Germany

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1. Data on persons with disabilities exercising their right to political participation

Table 1

| Indicator | Answer  (Choose one of the answers provided below) | Source and brief description/assessment |
| --- | --- | --- |
| Do national disability strategies include political participation? | National disability strategies specifically address political participation | In **Germany**, the federal governments second action plan from 2016 does address political participation.[[1]](#footnote-2) As of today, no overarching strive for better participation can be observed. The German Institute for Human Rights observes that the national action plan from 2016 is said to be in continuous development, but has been de facto replaced by a rather untransparent set of actions drafted in a non-participatory manner. |
| Can persons deprived of legal capacity vote? | Full Participation | In **Germany**, exclusions existed regarding both national and European elections until 2019, when the constitutional court ruled them in the BWG[[2]](#footnote-3) unconstitutional (BVerfG, Beschluss des Zweiten Senats vom 29. Januar 2019 - 2 BvC 62/14 -, Rn. 1-142)[[3]](#footnote-4) and the identical provisions in the EuWG[[4]](#footnote-5) thus inapplicable for the 2019 European Parliament elections (BVerfG, Urteil des Zweiten Senats vom 15. April 2019 - 2 BvQ 22/19 -, Rn. 1-53)[[5]](#footnote-6) |
| Is there a requirement under law to register to vote? | No, automatic registration | No development |
| Are alternative ways of voting available to persons with disabilities? | Yes, available to all voters | No development |
| Is there legislation regulating how people living in long-term institutions may vote? | Yes | No development    -In **Germany**, according to Article 8 EuWO[[6]](#footnote-7) and Article 8 BWO[[7]](#footnote-8) so-called mobile election boards should be established to enable voters in smaller long term institutions to cast their vote.  - Details on the election process are outlined in Article 55 EuWO and Article 62 BWO.  -Article 13 EuWO and Article 13 BWO provide for the establishment of special constituencies in different kinds of institutions with a higher number of voters [again, number not specified in law] such as hospitals, retirement homes or nursing homes. Where such constituencies are not established Article 8 EuWO or Article 8 BWO applies.  -Article 54 EuWO and Article 61 BWO regulate the details on how the elections in special constituencies are to be carried out.  -Irrespective of the listed options the possibility of casting a postal vote remains, Article 6 EuWG[[8]](#footnote-9) and Article 36 BWG. Article 59 EuWO and Article 66 BWO outline the details on how to carry out the postal vote for persons in institutions.  -All provisions on the voting process of people living in institutions refer to the general rules of procedure, especially Article 52 and 49 (4)-(8) EuWO as well as Article 56 (4) and 59 BWO to ensure the secrecy of the vote and that a third party does not learn about the voter’s personal information.  - On the municipal level similar provisions apply. They are codified in the different electoral laws of the states. |
| Is there a legal duty to provide assistance in voting to persons with disabilities? | Yes, for all persons with disabilities | Article 50 (1) EuWO and Article 57 (1) BWO grant persons not able to read or with disabilities assistance in the immediate act of voting. |
| Are all persons with disabilities legally able to access complaints mechanisms if they have not been able to exercise the right to political participation? | Yes, all persons with disabilities | According to the **German** WahlPrG (*Wahlprüfungsgesetz)[[9]](#footnote-10)*, everybody has the possibility to raise an objection at the German Parliament with the claim that his or her right to vote has been violated. If the infringement is determined, this will officially be established by the Parliament in the ruling (Article 2 WahlPrG).  -If remedy could not be found, the complainant can take the case directly to the constitutional court, Article 41 (2) GG, Article 13 no. 3 of the Law on the Federal Constitutional Court (Bundesverfassungsgerichtsgesetz, BVerfGG).[[10]](#footnote-11) This legal route was also taken by the complainants in the 2019 case when the constitutional court ruled deprivation of the right to vote due to full legal custodianship in all affairs unconstitutional. (BVerfG, Beschluss des Zweiten Senats vom 29. Januar 2019 - 2 BvC 62/14 -, Rn. 1-142). https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2019/01/cs20190129\_2bvc006214.html.) |
| Is information on complaints mechanisms regarding political participation accessible to persons with disabilities? | Partially – Website is EN 301 549 v3.2.1 (2021-03) compliant but no materials are available in alternative formats | The information can be found on the website of the **German** Parliament, which is mostly compliant with the EU guideline.[[11]](#footnote-12)  It does not however include easy-to-read or German sign language. |
| Have national courts considered cases related to the right to political participation of persons with disabilities? | Yes, cases considered | In **Germany**, exclusions on the basis of full legal custodianship in all matters existed until 2019, when the constitutional court ruled them unconstitutional. (BVerfG, Beschluss des Zweiten Senats vom 29. Januar 2019 - 2 BvC 62/14 -, Rn. 1-142) https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2019/01/cs20190129\_2bvc006214.html |
| Have non-judicial complaints mechanisms considered cases related to the right to political participation of persons with disabilities? | No, no cases identified | In **Germany** it is in principle possible to address violations by the authorities using the complaints mechanism (Schlichtungsstelle) of the federal government (Article 16 of the Federal Disabled Persons Equality Act, *Behindertengleichstellungsgesetz*, *BGG)[[12]](#footnote-13)* and those states, in which the legislation provides for one. No complaints considered have been identified by the German Institute for Human Rights. |
| Are persons with disabilities members of the current national parliament? | Some MPs identify as having a disability (official data) | Identifying as a person with disabilities is a personal decision. It is not clear what “official data” one would reliably draw upon to identify these members of parliament. There is at least one MP in **Germany** (Stephanie Äffner, Bündnis 90/Die Grünen) openly identifying as disabled.[[13]](#footnote-14)  A 2017 survey quoted in the national disability report issued by the federal ministry for social affairs counted 23 members of the **German** Bundestag with disabilities (3.3%) and went on to say that another 43 persons would be required to represent persons with disabilities in proportion to the population as a whole.[[14]](#footnote-15) |
| Is data available on the number of members of municipal/regional governments who have a disability? | No data available |  |
| Is training for election authorities and officials on non-discrimination on the grounds of disability, accessibility and accommodation required by law? | No training required by law | Neither **German** national law on the act of voting (Bundeswahlgesetz), nor its executive direction (Bundeswahlordnung) do address this issue specifically. However, a general provision does exist. According to Article 6 (5) EuWO and Article 6 (5) BWO the local authority is obliged to train the members of the election board to ensure that the election is carried out in due process. This should include the handling of assistance for persons with disabilities if they need it, including help with casting the vote, Article 50 EuWO and Article 57 BWO. However, there is no specific training and no information if and how election board staff is trained to assist persons with disabilities. Details on whether and how this general provision is realized in practice could not be obtained. |
| Are there mechanisms in place to ensure consultation and involvement of DPOs in the development of laws and policies which affect them? | Yes, mechanisms established by law | On the federal level, Article 47 of the Common Rules of Procedure for Federal Ministries in **Germany** (*Gemeinsame Geschäftsordnung der Bundesministerien*, GGO)[[15]](#footnote-16) provides that concerned associations have to be consulted in law-making procedures or processes to develop political strategies. This includes associations of persons with disabilities and is usually carried out through consultations, expert hearings and the submission of written statements. Article 21 GGO stipulates that the federal government has to consult the Federal Government Commissioner for Matters relating to Disabled Persons in matters concerning people with disabilities, who himself consults DPOs. Similar processes apply on the *Länder* level.  The UN committee on the rights on persons with disabilities showed concerns in its concluding remarks on the 2023 state-report and issued a recommendation. [[16]](#footnote-17)  7 d):  “The lack of systematic and institutionalized engagement with organizations of persons with disabilities, including organizations of children with disabilities, in all matters affecting them, and of processes for close consultation with and the active involvement of organizations of persons with disabilities;”  8 d)  “Develop and implement institutionalized procedures for close consultation with and the active involvement of organizations of persons with disabilities, including organizations of children with disabilities, in all matters affecting them, set standards governing these procedures, guaranteeing, among others, sufficient time for their responses and providing all relevant documents in accessible formats, in line with the Committee’s general comment No. 7 (2018) (para. 54) and its previous recommendation” |
| Do national authorities provide guidelines on how to make polling stations accessible? | Yes, detailed guidance available | In **Germany**, the federal competence center for accessibility (Bundesfachstelle Barrierefreiheit) issued a non-binding guidebook for the accessibility of polling stations.[[17]](#footnote-18) |
| Does the website which provides instructions for voting and information on candidates meet accessibility standards? | Partially, some accessibility measures are in place | The accessibility statement on the website of the **German** Federal Returning Officer claims their aim is to make information accessible to as many people as possible.[[18]](#footnote-19) However, the website is only partially compliant with the requirements due to some incompatibilities and exceptions.[[19]](#footnote-20) These include PDF files of specialist publications with complex volumes of tables, documents from political parties and maps. In many cases, alternatively data tables in an open format with the same or even more detailed data are offered for download. Information on constituencies, candidates, results and elected representatives can also be accessed in a hierarchical manner via individual HTML pages.  For the **German** Bundestag election 2021 information on accessible polling stations and helpers as well as ballot paper templates for blind and visually impaired voters were published.[[20]](#footnote-21)  The websites of the Returning Officers in the federal states (Landeswahlleiter) are often part of the state's government websites, overviews of the election candidates and results are published on websites at various local levels. So far there is no systematic evaluation of the accessibility of information on elections. Yet, the first report of the German monitoring bodies for accessibility of public sector information technology to the EU commission from 2021 showed that compliance with the accessibility standards is not yet met completely on many websites, especially at municipal level.[[21]](#footnote-22) |
| Are some television programmes providing instructions for voting and information on candidates subtitled? | Yes, some key programmes are subtitled | Leading up to an election, Public Broadcasting stations in **Germany** are required under Medienstaatsvertrag[[22]](#footnote-23) Article 68 to grant the parties in federal elections due air time. Similar provisions exist on the state level.  No comprehensive overview of how accessible these and other more news- or education-related television programmes are concerning subtitles, German Sign Language and audio desciption could be obtained.  The German Institute for Human Rights voiced the following general impression in its parallel report to the CRPD Committee in 2023, which as the author of this report it considers to be representative also concerning elections.[[23]](#footnote-24)    “Public and private media have expanded their accessible content significantly in  recent years. For example, more and more video-on-demand services and livestream are available with audio descriptions, subtitles and German Sign Language. The Media Amendment Treaty (Medienänderungsstaatsvertrag) which came into force in 2022 was the first to legally enshrine the term “barrier-free service” and obliges providers to persist in expanding their offerings “within the scope of what is technically and financially possible”. But with a few exceptions, these additional services do not appear in regular, linear broadcasting; they can only be enjoyed using special applications that require certain equipment and an internet connection, and are therefore not accessible for all persons with disabilities. Despite visible improvements, Germany remains far behind the requirements of Art. 21. The obligation to develop accessible services contained in the Media Amendment Treaty is essentially welcome, but lacks specific goals. Furthermore, it barely touches on linear broadcasts, especially live ones. The legal requirements governing accessible internet services are still frequently ignored, both in terms of design and in the way they are implemented by producers. This prevents many people from accessing important content, but those responsible are not at risk of sanction.” |
| Do some television programmes providing instructions for voting and information on candidates have national sign language interpretation? | Yes, some key programmes have sign language interpretation | Description above |
| Are some television programmes providing instructions for voting and information on candidates audio described? | Yes, some key programmes have audio description | Description above |
| Were some political party manifestos provided in accessible formats during the most recent elections? | Some political parties provided accessible manifestos | All parties represented in the federal parliament of **Germany** except for one (AfD- Alternative für Deutschland) have issued manifestos in easy-to-read during the 2021 federal election.[[24]](#footnote-25) On the state level this is not standard yet. Also some parties followed suit in the most recent state elections in Hesse and Bavaria.[[25]](#footnote-26) |
| Are there legal accessibility standards for public and private providers of internet and web-based public information? | Yes, covering public and private | The Barrier-free Information Technology Ordinance (BITV 2.0 from May 2019) in accordance with Article 12d of the Federal Disability Equality Act (BGG) implements Directive (EU) 2016/2102 for public sector websites and refers to EN 301 549 v3.2.1 as harmonized norm in Article 3.[[26]](#footnote-27) The federal states (Länder) have equivalent laws or refer to the federal BITV. Additionally, there is a requirement to provide certain contents in **German** Sign Language and Easy-to-Read Language.  Privates are only very marginally obligated. The European Accessibility Act (Directive (EU) 2019/882) was transposed into national law in July 2021 with the Barrierefreiheitsstärkungsgesetz (BFSG),[[27]](#footnote-28) defining accessibility requirements for certain products and services that are placed on the market or provided to consumers after 28 June 2025  The Act limits itself to the absolute minimum requirements of the EAA. The leeway that does exist to extend accessibility beyond that (such as in health services, services in the education sector, household appliances or by including the structural environment in which appliances are used) was not utilized. of. Legal enforcement is undermined by long transition periods, far-reaching exceptions and weak sanctions. |
| Are there legal accessibility standards for public and private providers of media? | Yes, for public and private | In **Germany**, the Second Interstate Media Amendment[[28]](#footnote-29) came into force on 30 June 2022, implementing Directive (EU) 2019/882 on accessibility requirements for products and services. Article 7 demands that the state broadcasting organisations that are part of ARD, ZDF, Deutschlandradio and all organisers of nationwide private broadcasting programmes should include accessible programmes within the scope of their technical and financial possibilities and steadily and gradually expand the scope of such programmes. Additionally, private and public providers have to report about the accessibility of their programmes, action plans of planned measures and progress made to the relevant state media authority or their respective supervisory bodies at least every three years. |
| Are there mandatory accessibility standards for national and local authority buildings in the election context? | No | In **Germany**, general provisions for public buildings exist in the federal equality law Article 8 (1). though being of weak mandatory character and offering several opportunities for circumvention. The German Institute for Human Rights concluded in 2023 that significant changes in the legislation would be necessary to ensure accessibility in the future.[[29]](#footnote-30) Since 2022 Article 12e-12l BGG grant universal access to assistance dogs to buildings open to the public. |
| Are there legal accessibility standards for polling stations in place? | No legal standards | Neither the **German** national law on the act of voting (Federal Elections Act), nor its executive direction (Federal Electoral Regulations) issue a mandatory standard on polling stations. Article 46 BWO and Article 39 (1) EuWO state that efforts should be made to allow for access of the ballot rooms by everybody, especially persons with disabilities. Local authorities have to announce which polling stations are barrier-free in good time before the election. Article19 (1) no. 2 and 7 BWO specify the obligation of the state to inform about the accessibility of the assigned polling stations and where information about accessible alternatives is available.  - There is no uniform federal regulation regarding referendums. Rules for referendums are codified in the constitutions and in separate laws of the different states (see for example Article 29 (6) German constitutional law). |
| Is data available on the proportion of polling stations that are accessible to persons with disabilities? | Some official data available | There is a general lack of data concerning the accessibility of polling stations in **Germany**. As the states and local authorities are responsible for the execution of the election process, two problems arise: There are only scattered data available and very different concepts of accessibility appear to be applied. Where some official data are available they suggest a serious lack of accessible polling stations. Some examples from elections in past years:  -**Thuringia:** 55% accessible.[[30]](#footnote-31)  -**Saxony-Anhalt**: 60,9% according to the state commissioner for the election (Landeswahlleiter).[[31]](#footnote-32)  -**Hamburg** 24% accessible polling stations, though significantly more are labeled as “partly accessible”.[[32]](#footnote-33) |
| Is data available on the proportion of public buildings that are accessible for persons with disabilities? | Some official data available | There are some data available. Article 8 (3) of the federal equality law had obligated all federal institutions to report on the accessibility of their buildings and measures to ensure accessibility until 30 June 2021. It revealed still great prevalence of barriers for people with impairments.[[33]](#footnote-34) The federal government acknowledged that the process still required “more consequent continuation”.[[34]](#footnote-35)  On the state level, similar efforts can be observed, but data are still far from comprehensive. |

1. Political participation of persons with disabilities in practice
   1. Positive and negative key development as regards political participation of persons with disabilities

The 2019 ruling by the constitutional court declaring the deprivation of the right to vote unconstitutional (see description above)

* 1. Political participation: Promising practices

In Schleswig-Holstein, the state election procedures were even amended in 2016 so that the official election documents for the 2017 Landtag election were issued in easy-to-read to everyone who was entitled to vote, by default. However, this consistently inclusive approach was rescinded a year later.[[35]](#footnote-36)

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   der Bundesregierung zur UN-Behindertenrechtskonvention (UN-BRK). Available at: https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/a750-nationaler-aktionsplan-2-0.pdf?\_\_blob=publicationFile&v=1 (p.153-167) [↑](#footnote-ref-2)
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3. Germany, Federal Constitutional Court (2019). Beschluss des Zweiten Senats vom 29. Januar 2019. Available at: https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2019/01/cs20190129\_2bvc006214.html [↑](#footnote-ref-4)
4. Germany, European Elections Act (*Europawahlgesetz*, EuWG), available at: https://www.gesetze-im-internet.de/euwg/ [↑](#footnote-ref-5)
5. Germany, Federal Constitutional Court (2019). Urteil des Zweiten Senats vom 15. April 2019. Available at: https://www.bverfg.de/e/qs20190415a\_2bvq002219.html [↑](#footnote-ref-6)
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13. https://aeffnerstephanie.de/ueber-mich/ [↑](#footnote-ref-14)
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    Bundesregierung über die Lebenslagen von Menschen mit Beeinträchtigungen. Available at: https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/a125-21-

    teilhabebericht.pdf?\_blob=publicationFile&v=7. p. 726. [↑](#footnote-ref-15)
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18. (https://www.bundeswahlleiterin.de/info/barrierefreiheit.html). [↑](#footnote-ref-19)
19. Ad-hoc Assessement by the NHRI for this publication. [↑](#footnote-ref-20)
20. https://www.bundeswahlleiterin.de/en/bundestagswahlen/2021/informationen-waehler/barrierefreies-waehlen.html). General information on the upcoming European Parliament election 2024 is already provided (English: https://www.bundeswahlleiterin.de/en/europawahlen/2024.html, German:

    https://www.bundeswahlleiterin.de/europawahlen/2024.html , Easy-to-Read: https://www.bundeswahlleiterin.de/info/leichte-sprache/europawahl.html). [↑](#footnote-ref-21)
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    https://www.gruene-bayern.de/leichte-sprache/

    https://bayernspd.de/programm/

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