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

Country

MALTA

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Contents

[1. Data on persons with disabilities exercising their right to political participation 3](#_Toc1905438080)

[2. Political participation of persons with disabilities in practice 9](#_Toc1607741523)

[2.1. Positive and negative key development as regards political participation of persons with disabilities 9](#_Toc1363565999)

[2.2. Political participation: Promising practices 9](#_Toc299275285)

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 | ‘Malta’s 2021 – 2030 National Strategy on the Rights of Disabled Persons’[[1]](#footnote-2) contains Objective 11 (out of a total of 13 Objectives) entitled Participation in Political and Public Life. The Objective is composed of four actions: stakeholder discussions on inclusive voting mechanisms, the support of candidates with disabilities, political party awareness-raising, Parliament accessibility. |
| Can persons deprived of legal capacity vote? | Exclusion | Malta’s Constitution, in Article 58(a), disqualifies from registration to vote any person who a Court has interdicted or incapacitated due to mental infirmity, or who is determined to be of “unsound mind”[[2]](#footnote-3).  This is further reflected in the General Elections Act where Article 21 lists the requisites for persons to be registered as voters[[3]](#footnote-4). Article 27 of the Act specifies that the Electoral Commission shall refuse to register as voter persons who have been interdicted or incapacitated by a competent Court or who have been declared to be of “unsound mind” by a Medical Board established to assess issues falling under the above-mentioned Constitution Article. The Board is composed of three doctors: one appointed by the Electoral Commission and the other two by each of the political parties.  The ODIHR, in its expert report on Malta’s 2022’s early elections, flagged this limitation, commenting that Maltese law is not in conformity with Articles 12 and 29 of the Convention. The ODIHR recommended that Malta brings its legislation in line with the Convention by *“removing all restrictions on voting rights on the basis of any kind of disability”*[[4]](#footnote-5)*.* |
| Is there a requirement under law to register to vote? | No, automatic registration | In Malta, voter registration is passive and based on the voter’s habitual residence. For this purpose, the General Elections Act requires all public officers to share all and any relevant information with the Electoral Commission regarding individual voters. Specifically, the Act requires Malta’s public registries, the registries of the Courts and the registries of the prisons to regularly share with the Electoral Commission all new information relating to voters, such as personal particulars, Court decisions regarding incapacitation or interdiction and details of persons released from prison[[5]](#footnote-6).  The General Elections Act, in Article 21, permits eligible persons to be registered as voters.  The Electoral Register, being the document containing the list of voters together with personal information, is a public document. The ODIHR, in its expert report on Malta’s 2022’s early elections noted that this practice is not in conformity with voter data privacy[[6]](#footnote-7). |
| Are alternative ways of voting available to persons with disabilities? | Yes, disability-specific alternatives | In Article 64(3), the General Elections Act states that the Electoral Commission shall provide facilities so that persons with disabilities may vote in comfort. Article 49(1) requires the Electoral Commission to produce a Braille template as a ballot guide as well as a playback listening device for recognition of parties and candidates. The Act also contains provisions relating to voting in retirement homes and hospitals[[7]](#footnote-8).  Article 72(1) allows any voter to declare to the Assistant Commissioners present at the polling station, that they are unable to mark their ballot paper due to *“blindness, other physical cause or illiteracy”*. If the Assistant Commissioners are satisfied that the declaration is a valid one, the room will be vacated and not less than two Assistant Commissioners will record the voter’s preference, in secrecy.  Part X of the Act regulates Assistant Commissioners and states that these are nominated by every political party.  The ODIHR, in its expert report on Malta’s 2022’s early elections noted that Braille templates and audio equipment were available, and that the majority of polling stations were accessible. It also flagged the impossibility of voters to select the person of their own choice to assist them with their voting, as the Act requires that such assistance is provided by the Assistant Commissioners. The ODIHR recommended to amend the Act so as to ensure voting secrecy and to explore alternative voting methods[[8]](#footnote-9). |
| Is there legislation regulating how people living in long-term institutions may vote? | Yes, specific legislative provisions | Yes, the General Elections Act’s Part XII regulating voting in retirement homes and hospitals, including by providing a rather restrictive definition of these terms. “*Retirement homes*” are specifically and exclusively places providing care of elderly persons with at least fifty residents, whilst an exhaustive list of hospitals is provided for.  As stated in the Act, the main aim of these provisions is to ensure that voters residing in these places are not put under undue pressure, that they are provided with the necessary facilitates to vote and that political parties are granted equal access to this voting group.  The Act requires the establishment of a Sub-committee for Retirement Homes and hospitals within one day from the formal announcement of general elections. The Sub-committee is composed of an Electoral Commissioner and a representative of each political party, with the duty of running the electoral process in homes and hospitals.  The Act explains the procedures to be followed by the Sub-committee in relation to individual places, including gathering voter and staff details and sharing these details with the political parties. Furthermore, and unlike in the situations of persons requiring assistance to vote at the polling station, the Act regulates the distribution of voting documents at these places and offers voters the possibility to request to be assisted by any person, by staff members of by members of their families |
| Is there a legal duty to provide assistance in voting to persons with disabilities? | No | The General Elections Act contains assistance provisions for persons who declare to be unable to fill the ballot alone, for persons residing in homes for the elderly, for persons in hospital and for persons with visual impairment issues.  Whereas the latter three groups are described in the Act by way of a legal obligation, assistance to the first group of persons is formulated as a discretionary authority given to the Assistant Commissioners receiving and assessing the assistance request.  There is no general legal provision requiring the provision of assistance of persons with disabilities, so if they do not fall in any of the above-mentioned categories, no assistance is provided. |
| 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 | The Feedback page on the Electoral Commission’s website, also indicated for complaints, does not refer to any eligibility requirements for filing complaints[[9]](#footnote-10). |
| Is information on complaints mechanisms regarding political participation accessible to persons with disabilities? | No | Complaints are to be submitted either through the above-mentioned Feedback page or via direct e-mail to the Electoral Commission. The webpage is not available in alternative formats and no information is available on the complaints mechanism itself, either generally or specifically directed towards persons with disabilities. Whilst filing complaints by e-mail is indeed a possibility, the only place where this is mentioned is the same Feedback page[[10]](#footnote-11).  A full search of the website of the Electoral Commission did not reveal any other information relating to complaints mechanisms, generally or specifically in relation to persons with disabilities. |
| Have national courts considered cases related to the right to political participation of persons with disabilities? | No, no cases identified | No cases have been identified through a comprehensive search of the jurisprudence database of the Court Services Agency[[11]](#footnote-12). |
| Have non-judicial complaints mechanisms considered cases related to the right to political participation of persons with disabilities? | Yes, cases considered | Yes, the Commission for the Rights of Persons with Disability confirms that is has received the following complaints:   * 2 reports about voting for persons with a visual impairment in 2017 and 2019; * 1 case regarding a voting location not being physically accessible in 2019; * 1 case about political debates on television not being signed for the hearing impaired in 2017[[12]](#footnote-13). |
| Are persons with disabilities members of the current national parliament? | No data identified | In Malta there is no official data identifying MPs as being or not being persons with disabilities. An informal search did not reveal that any current MPs are persons with disabilities, although there have been in past parliaments[[13]](#footnote-14). |
| Is data available on the number of members of municipal/regional governments who have a disability? | Some unofficial data available | Various news pages report items or carry interviews with Local Council members who are persons with disabilities[[14]](#footnote-15). |
| 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 the Constitution nor the General Elections Act require any form of training for Electoral Commissioners. The General Elections Act also does not require such training for the public service officials running the Electoral Office. Finally, the General Elections Act does not require such training for members of the Medical Board. |
| Are there mechanisms in place to ensure consultation and involvement of DPOs in the development of laws and policies which affect them? | No mechanisms established by law, but systematic procedures in place | The Standing Orders of the House of Representatives do not require any form of consultation during the process of developing laws, yet any member of the public may request the Parliamentary Committee discussing the bill to appear before it to make submissions[[15]](#footnote-16).  For major policies and laws, a public consultation portal is used to gather feedback from the public. The portal would share draft documents and invite feedback[[16]](#footnote-17). |
| Do national authorities provide guidelines on how to make polling stations accessible? | No detailed guidance available | The Malta Electoral Commission does not issue such guidelines.  However, in 2022, the ODIHR noted that accessibility was not problematic for two main reasons. Firstly, ODIHR noted that polling stations are located in public schools, these being establishments enjoying high accessibility standards. Secondly, polling stations are generally installed on the ground floor[[17]](#footnote-18).  According to the Malta Electoral Commission, during the four days of voting for the 2019 European Parliament elections, of the 135 polling stations 30 were established in residential homes, and others in all hospitals in Malta and Gozo (including Malta’s hospital for persons with mental health issues)[[18]](#footnote-19).  Furthermore, the Malta Electoral Commission reports that, in relation to the 2022 national elections, it provided instructions that persons holding identity cards issued by the Commission for the Rights of Persons with Disability are entitled to skip queues as they wait to enter the polling station[[19]](#footnote-20). |
| Does the website which provides instructions for voting and information on candidates meet accessibility standards? | No | The website of the Malta Electoral Commission does not meet accessibility standards as neither of the publications available on the same site[[20]](#footnote-21).  The site allows users to change the website language, with Maltese and English being the only available options. |
| Are some television programmes providing instructions for voting and information on candidates subtitled? | Yes, some key programmes are subtitled | Publicly available videos may by the Malta Electoral Commission for the 2015 elections were not subtitled. Promotional videos made by political parties for previous elections were mostly not subtitled[[21]](#footnote-22).  All broadcasts made by the Malta Broadcasting Authority relating to national and European elections were not subtitled but included use of sign language, particularly in political discussion programmes and candidate presentations[[22]](#footnote-23). |
| 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 | All political programmes produced by the Malta Broadcasting Authority have sign language interpretation. These programmes focus on candidates and parties, rather than on voting procedures and instructions[[23]](#footnote-24).  Programmes made by the Malta Electoral Commission, being programmes focusing on voting procedures and instructions, do not have sign language interpretation. |
| Are some television programmes providing instructions for voting and information on candidates audio described? | No, key programmes do not have audio description | None of the programmes of the Malta Electoral Commission[[24]](#footnote-25) or of the Malta Broadcasting Authority[[25]](#footnote-26) have audio description. |
| Were some political party manifestos provided in accessible formats during the most recent elections? | No political parties provided accessible manifestos | Neither the manifesto of the Partit Nazzjonalista nor of the Partit Laburista for the 2022 national elections are available in accessible formats[[26]](#footnote-27). The manifesto of ADPA is also not available in accessible formats[[27]](#footnote-28). |
| Are there legal accessibility standards for public and private providers of internet and web-based public information? | Yes, covering public only | Yes, Malta transposed into Maltese law the EU Web Accessibility Directive through the ‘Accessibility of the Websites and Mobile Applications of Public Sector Bodies Regulations’[[28]](#footnote-29). The Malta Communications Authority is the body responsible for undertaking the annual tests to ensure compliance with these Regulations, in consultation with the Commission on the Rights of Persons with Disability[[29]](#footnote-30).  The Regulations are only applicable to public sector bodies. |
| Are there legal accessibility standards for public and private providers of media? | No | Under the authority of the Broadcasting Act, the Broadcasting Authority published the ‘Requirements As To Standards And Practice Applicable To Disability And Its Portrayal In The Broadcasting Media’[[30]](#footnote-31), yet no reference is made to accessibility issues as the document is more concerned with the portrayal of persons with disability rather than with accessibility.  In relation to products placed on the market from 2025 onwards, these will be regulated by the ‘Accessibility Measures (European Accessibility Act) Regulations’[[31]](#footnote-32), transposing into Maltese law the provisions of EU Directive 2019/882. |
| Are there mandatory accessibility standards for national and local authority buildings in the election context? | Partially | The existing accessibility standards for public buildings do not specifically cover buildings in the election context, but more generally regulate public buildings. This is achieved through a joint reading of various documents.  A Circular issued by the Malta Planning Authority[[32]](#footnote-33) lists those types of buildings that require a consultation with the National Commission for the Rights of Persons with Disability prior to being granted a compliance certificate. The consultation should be centered around the building’s compliance with the Commission’s ‘Access for All Design Guidelines’[[33]](#footnote-34) and is required to lead to the issuing of an Accessibility Audit in relation to the project. The list of such buildings, found in the Circular’s Appendix A, includes all residential institutions (including hospitals and nursing homes), all public offices, non-residential institutions (e.g. museums and libraries). The Circular further states that all Local Council and Central Government projects are required to be vetted for accessibility and to obtain Commission certification.  These observations are relevant in understanding whether buildings used in an election context are accessible or otherwise. Although the above standards do not specifically refer to elections, since polling stations are always established in public buildings, it should be assumed that Accessibility Audits have been carried out on such buildings.  It is however noted that buildings predating these policies might not necessarily be constructed in accordance with the policies. |
| Are there legal accessibility standards for polling stations in place? | Not available | No legal standards are in place for accessibility to polling stations. |
| Is data available on the proportion of polling stations that are accessible to persons with disabilities? | No data identified | No official data is available on the accessibility of polling stations.  However, as noted above, in 2022 the ODIHR noted that accessibility was not problematic for two main reasons. Firstly, ODIHR noted that polling stations are located in public schools, these being establishments enjoying high accessibility standards. Secondly, polling stations are generally installed on the ground floor[[34]](#footnote-35). |
| Is data available on the proportion of public buildings that are accessible for persons with disabilities? | No data identified | The Accessibility Reports produced by the Commission for the Rights of Persons with Disability do not focus on public buildings, and no other publicly available data was identified in this regard. |

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

The 2021 launch of Malta’s 2021-2030 National Strategy on the Rights of Disabled Persons is a positive key development in this regard, insofar as it specifically contains an objective related to participation in political and public life.

In terms of Objective 11, four Actions are envisaged namely the exploration of inclusive voting mechanisms, supporting persons with disabilities to contest local, national and EU elections, awareness-raising activities targeting political parties and strengthening accessibility in Parliament[[35]](#footnote-36).

The most recent national elections, held in 2022, did not show significant positive or negative developments. Nonetheless, it is pertinent to note that the OSCE’s report on its monitoring activities flagged the same concerns it had flagged in previous years, mainly relating to the ineligibility of vote of persons declared to be of “unsound mind”, the lack of alternative voting methods for persons with disabilities, and the lack of voting secrecy during the actual voting process[[36]](#footnote-37).

The Commission for the Rights of Persons with Disability did not note any positive or negative developments in this regard[[37]](#footnote-38).

* 1. Political participation: Promising practices

The Commission for the Rights of Persons with Disability did not note any promising practice in this regard[[38]](#footnote-39).

1. Malta Ministry for Inclusion and Social Wellbeing, Freedom to Live: Malta’s 2021 – 2030 National Strategy on the Rights of Disabled Persons, 2023, <https://inclusion.gov.mt/wp-content/uploads/2023/04/Disability-Doc-ENG-SEP-21.pdf>. [↑](#footnote-ref-2)
2. The Constitution of Malta, 1964, <https://legislation.mt/eli/const/eng>. [↑](#footnote-ref-3)
3. The General Elections Act, CAP. 354 of the Laws of Malta, 1991, <https://legislation.mt/eli/cap/354/eng>. [↑](#footnote-ref-4)
4. OSCE, Office for Democratic Institutions and Human Rights (ODIHR), Republic of Malta: Early Parliamentary Elections 26 March 2022, ODIHR Election Expert Team Final Report, 2022, page 7, <https://www.osce.org/files/f/documents/8/7/522712.pdf>. [↑](#footnote-ref-5)
5. Article 20, General Elections Act. [↑](#footnote-ref-6)
6. ODIHR, ibid, page 8. [↑](#footnote-ref-7)
7. Part XII, General Elections Act. [↑](#footnote-ref-8)
8. ODIHR, ibid, page 18. [↑](#footnote-ref-9)
9. Electoral Commission Malta, Feedback page, <https://electoral.gov.mt/Feedback>. [↑](#footnote-ref-10)
10. Ibid. [↑](#footnote-ref-11)
11. Court Services Agency, <https://ecourts.gov.mt/onlineservices>. [↑](#footnote-ref-12)
12. Information provided by e-mail on 15 November 2023. [↑](#footnote-ref-13)
13. Times of Malta, Watch: Our disability is partly to blame for not getting elected, say former MPs, 8 May 2022, <https://timesofmalta.com/articles/view/watch-our-disability-is-partly-to-blame-for-not-getting-elected-say.953089>. [↑](#footnote-ref-14)
14. Gozo News, More politicians with a disability are needed – CRPD Commissioner, 17 April 2019, <https://gozo.news/75464/more-politicians-with-a-disability-are-needed-crpd-commissioner/>; The Malta Independent, 21 people with disability provided employment in local councils, 13 May 2019, <https://www.independent.com.mt/articles/2019-05-13/local-news/120-people-with-disability-provided-full-time-employment-in-local-councils-6736208092>; TVM News, 10 people with a disability to contest local council and MEP elections, 23 April 2019, <https://tvmnews.mt/en/news/10-people-with-a-disability-to-contest-local-council-and-mep-elections/>. [↑](#footnote-ref-15)
15. Subsidiary Legislation Const.02, Standing Orders of the House of Representatives Order, 1962, <https://legislation.mt/eli/sl/const.2/eng/pdf>. [↑](#footnote-ref-16)
16. Public Consultations, <https://www.gov.mt/en/publicconsultation/Pages/default.aspx>. [↑](#footnote-ref-17)
17. OSCE, Office for Democratic Institutions and Human Rights (ODIHR), Malta: Early Parliamentary Elections 26 March 2022, ODIHR Needs Assessment Mission Report 28 February – 4 March 2022, 2022, <https://www.osce.org/odihr/elections/malta/513907>. [↑](#footnote-ref-18)
18. Electoral Commission Malta, Report on the European Parliament Elections May 2019, 2019, <https://electoral.gov.mt/Media/Default/Documents/EPElectionReport/EPE_Election_Report.pdf>. [↑](#footnote-ref-19)
19. Electoral Commission Malta, Report on the General Elections March 2022, <https://electoral.gov.mt/Media/Default/Documents/GEElectionReport/GE_Election_Report.pdf>. [↑](#footnote-ref-20)
20. Electoral Commission Malta, <https://electoral.gov.mt>. [↑](#footnote-ref-21)
21. Malta Electoral Commission videos, <https://www.youtube.com/@electoralcommissionmalta522/videos>. Some videos by the Partit Nazzjonalista are subtitled and others are not, <https://www.youtube.com/watch?v=1QmSslfbMtg>. Videos by the Partit Laburista are not subtitled, <https://www.youtube.com/@PartitNazzjonalistaMalta/videos>, including videos providing instructions on how to fly to Malta in order to vote. [↑](#footnote-ref-22)
22. Malta Broadcasting Authority, <https://www.youtube.com/@Ba-maltaOrg/playlists>. [↑](#footnote-ref-23)
23. Ibid. [↑](#footnote-ref-24)
24. See above at footnote 21. [↑](#footnote-ref-25)
25. Ibid. [↑](#footnote-ref-26)
26. Partit Nazzjonalista, Viżjoni għal Malta 2030, <https://assets.nationbuilder.com/pn/pages/3115/attachments/original/1645723497/Partit_Nazzjonalista_Viz%CC%87joni_G%C4%A7al_Malta_2030.pdf?1645723497>; Partit Laburista, Malta Flimkien, <https://issuu.com/robertabelamt/docs/malta_flimkien_manifest_elettorali_2022?utm_medium=referral&utm_source=partitlaburista.org>. [↑](#footnote-ref-27)
27. ADPA, Xkupa Ħadra Tnaddaf, <https://adpd.mt/wp-content/uploads/2022/03/ADPD_Manifest-Elettorali-2022.pdf>. [↑](#footnote-ref-28)
28. Accessibility of the Websites and Mobile Applications of Public Sector Bodies Regulations, S.L. 418.03, 2019, <https://legislation.mt/eli/sl/418.3/eng>. [↑](#footnote-ref-29)
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31. Accessibility Measures (European Accessibility Act) Regulations, S.L. 627.03, 2022, <https://legislation.mt/eli/sl/627.3/eng>. [↑](#footnote-ref-32)
32. Malta Planning Authority, MEPA CIRCULAR 03/10, <https://www.crpd.org.mt/wp-content/uploads/2021/09/3.-Circular-3-of-2010.pdf>. [↑](#footnote-ref-33)
33. Commission for the Rights of Persons with Disability, Access for All Design Guidelines’, 2011, <https://www.crpd.org.mt/wp-content/uploads/2020/11/Access-for-all-2011.pdf>. [↑](#footnote-ref-34)
34. OSCE, Office for Democratic Institutions and Human Rights (ODIHR), Malta: Early Parliamentary Elections 26 March 2022, ODIHR Needs Assessment Mission Report 28 February – 4 March 2022, 2022, <https://www.osce.org/odihr/elections/malta/513907>. [↑](#footnote-ref-35)
35. Malta Ministry for Inclusion and Social Wellbeing, Freedom to Live: Malta’s 2021 – 2030 National Strategy on the Rights of Disabled Persons, 2023, <https://inclusion.gov.mt/wp-content/uploads/2023/04/Disability-Doc-ENG-SEP-21.pdf>. [↑](#footnote-ref-36)
36. OSCE, Office for Democratic Institutions and Human Rights (ODIHR), Republic of Malta: Early Parliamentary Elections 26 March 2022, ODIHR Election Expert Team Final Report, 2022, page 7, <https://www.osce.org/files/f/documents/8/7/522712.pdf> [↑](#footnote-ref-37)
37. Information provided by e-mail on 15 November 2023. [↑](#footnote-ref-38)
38. Information provided by e-mail on 15 November 2023. [↑](#footnote-ref-39)