

Who will (not) get to vote in the 2019 European Parliament elections?

Developments in the right to vote of people deprived of legal capacity in EU Member States



"To fully realize the equal recognition of legal capacity in all aspects of life, it is important to recognize the legal capacity of persons with disabilities in public and political life. This means that a person's decision-making ability cannot be a justification for any exclusion of persons with disabilities from exercising their political rights, including the right to vote [and] the right to stand for election." Committee on the Rights of Persons with Disabilities (2014), General comment No. 1 – Article 12: Equal recognition before the law, CRPD/C/GC/1, 19 May 2014, para. 48

The right to vote is at the heart of what it means to live in a democratic society. However, legislation sets out a number of restrictions on this right. In all but two Member States, children under the age of 18 cannot vote.¹ Citizens of some Member States lose their right to vote if they live outside their country of origin for a certain period; other countries prevent prisoners from voting. In addition, across the EU many persons with disabilities are deprived of this right. Two-thirds of EU Member States restrict the right to vote of people deprived of legal capacity. This means that they cannot participate in elections on an equal basis with others. As it is typically people with intellectual and/or psychosocial impairments who are deprived of legal capacity, these groups are disproportionately affected by resulting restrictions on the right to vote.

With a view to the European Parliament elections in 2019, this paper presents developments in the situation of the right to vote for people deprived of legal capacity in the EU. It starts by analysing relevant legal reforms in the 28 EU Member States since 2014. The second section briefly identifies some of the factors that have helped to drive these legislative

changes. Finally, the paper highlights some positive initiatives to promote and realise people with disabilities' right to participate fully and actively in the electoral process.

What is the link between legal capacity and the right to vote?

Legal capacity is the law's recognition of the decisions that a person takes: it makes a person a subject of law, and a bearer of legal rights and obligations. Without it, an individual cannot make legally binding decisions, such as getting married, signing an employment contract or managing property. Once deprived of legal capacity by a judge, individuals are typically appointed a guardian who takes legally recognised decisions on their behalf. FRA's 2013 report *Legal capacity of persons with intellectual disabilities and persons with mental health problems* outlines the process of being deprived of legal capacity and placed under guardianship in the 28 EU Member States.

FRA's analysis of the national legal provisions covering the right to vote of people deprived of legal capacity divide EU Member States into three groups: 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). An overview of the situation at the time of writing is available on the FRA's [website](#).

The EU Agency for Fundamental Rights (FRA) first looked at this issue in 2010, when its report *The right to political participation of persons with mental health problems and persons with intellectual disabilities* showed that most EU Member States

automatically prevent people deprived of legal capacity from voting.² The Agency expanded this work in 2014 by developing human rights indicators on the wider right to political participation of persons with disabilities.³ These indicators highlighted scant progress in ending denial of the right to vote on the basis of legal incapacity. In addition, FRA has tracked developments in this area in its annual Fundamental Rights Reports.⁴

How many people are affected?

There is no reliable and comparable EU-wide data on the number of people with disabilities deprived of legal capacity. Even where such data are available, they may not indicate how many of these individuals are deprived of the right to vote as a consequence of legal incapacity. A 2017 study covering 36 European countries, including all EU Member States bar Luxembourg, estimated that at least 264,000 people in the EU live under full guardianship.⁵

In addition, data from a number of EU Member States give a sense of the national picture:

- A 2017 study for the German Federal Ministry of Labour and Social Affairs indicates that 81,220 people under guardianship covering all matters are deprived of the right to vote.⁶
- Data from the French Ministry of Justice indicates that around 385,000 people were under guardianship in 2015, of which around 65,000 were deprived of the right to vote.⁷
- In Bulgaria, over 7,000 people are deprived of legal capacity. According to the Bulgarian Constitution, political rights are denied to all people under guardianship.⁸
- Estimates in Spain indicate around 100,000 people under guardianship were prevented from voting until the end of 2018.⁹
- Until the end of 2018, around 1,900 people in Denmark were prevented from voting in parliamentary elections in Denmark.¹⁰



Slow but steady progress in realising the right to vote for all

Legal capacity has been a focus of reforms at the national level linked to ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), FRA research shows.¹¹ Taken together, the reforms demonstrate a clear trend towards reducing restrictions on the right to vote of people with disabilities deprived of legal capacity.

However, they do not always remove all such restrictions. In some cases, the shift is from automatic loss of voting rights upon deprivation of capacity, to a situation where the right to vote is decided by a court on the basis of an individual assessment. In others, the reforms do not cover all types of election. This raises questions about the compatibility of some new and proposed provisions with the CRPD, given the CRPD Committee's insistence that legislation depriving people of the right to vote based on a disability, or a proxy such as assessed 'capacity', should be abolished. Moreover, despite these reforms, only 12 EU Member States do not restrict voting rights for people under guardianship, as data on FRA's [website](#) shows.

Table 1 shows that legal changes in four EU Member States have granted the right to vote to at least

some additional persons with disabilities under guardianship since the last EU-wide FRA update in 2014. These reforms reflect the key role national courts are playing in this area.

The most comprehensive removal of restrictions to the right to vote took place in **Spain**. An amendment entering into force on 5 December 2018 removes the provision stating that people declared 'incapable' by a final court judgment shall not have the right to vote. In its place, the revised article states that "every person may exercise their right to vote, consciously, freely and voluntarily, whatever their method of communication and with the means of support they require".¹² As well as applying to new rulings on legal incapacity, the amendments also reinstate the right to vote of those currently under guardianship. The reforms followed a long-running legal case culminating in a 2016 Constitutional Court ruling that lower courts' decisions depriving a woman with intellectual disabilities of the right to vote on the basis of her lack of knowledge of basic aspects of the political and electoral systems did not violate the constitution (see table 2 and promising practice *Every vote counts*).

What does international and EU law say?

The right to vote is set out in numerous international and European instruments, beginning with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and Article 3 of Protocol No. 1 to the European Convention on Human Rights (ECHR). The CRPD, adopted by the EU and all 28 Member States, elaborates this right in the context of persons with disabilities. Its Article 29 requires that States Parties "ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others [...] including the right and opportunity for persons with disabilities to vote and be elected". This is underpinned by the provisions of Article 12 on equal recognition before the law, which states that persons with disabilities "enjoy legal capacity on an equal basis with others in all aspects of life".

At 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, as well as in Articles 39 and 40 of the Charter of Fundamental Rights of the EU. These rights are further detailed in secondary legislation, specifically Council Directives 93/109/EC and 94/80/EC which outline arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament and municipal elections for citizens of the Union living in a Member State of which they are not nationals. To the degree that EU legislation does not harmonise the respective procedures, EU Member States are free to design and apply their own procedural electoral laws. However, when doing so they must respect general principles of EU law, including the CRPD and the Charter.

For more information, see FRA publications in the back cover box.

Table 1: Reforms of legislation concerning the right to vote of people deprived of legal capacity since 2014

EU MS	Year	Type of election	New act/provision	Description of legal reform
BE	2018	All	Law on diverse provisions regarding justice (<i>Projet de loi portant des dispositions diverses en matière de justice</i>), 013DOC 54 3303/013, 20 December 2018	Ends automatic deprivation of the right to vote for people under prolonged minority status
DE	2018	Federal state, municipal	Act for the Amendment of the Electoral Law of Bremen (<i>Gesetz zur Änderung des Bremischen Wahlgesetzes</i>), 27 February 2018	Grants the right to vote and stand in elections to persons under legal guardianship in all affairs
			Seventh Act for the Amendment of Provisions in the Electoral Law of Hamburg (<i>Siebentes Gesetz zur Änderung wahlrechtlicher Vorschriften</i>), 14 May 2018	
			Act for Expanding the Right to Vote in the State of Brandenburg (<i>Gesetz zur Erweiterung des Wahlrechts im Land Brandenburg</i>), 29 June 2018	
	2016	State Assembly North Rhine Westphalia (<i>Landtag Nordrhein-Westfalen</i>) (2016), <i>Beschlussprotokoll der 114. Sitzung, PIBPr 16/114</i> , para. 5		
			State Assembly Schleswig-Holstein (<i>Schleswig-Holsteinischer Landtag</i>) (2016): <i>Plenarprotokoll der 122. Sitzung</i> , pp. 10146	
DK	2016	European, regional, municipal	Act no. 381 of 27 April 2016 amending the Act on Election of Danish Members to the European Parliament and the Act on Municipality and Regional elections (The right to vote for persons under guardianship entailing deprivation of the legal capacity to act) (<i>Lov nr. 381 af 27. April 2016 om ændring af lov om valg af danske medlemmer til Europa-Parlamentet og lov om kommunale og regionale valg (Valgret til personer under værgemål med fratagelse af den retlige handleevne)</i>)	Grants the right to vote and stand in elections to persons under court-imposed full legal guardianship
	2018	National	Act 1722 of 27 December 2018 amending the Guardianship Act, the Act on Elections to the Folketing, the Act on Land Registration and the Act on the Central Person Register (<i>Lov nr 1722 af 27/12/2018 Gældende Lov om ændring af værgemålsloven, lov om valg til Folketinget, lov om tinglysning og lov om Det Centrale Personregister</i>)	Introduces partial guardianship and grants the right to vote to persons under partial guardianship
ES	2018	European, national, regional, municipal	Organic Law 2/2018 of 5 December 2018 amending the Organic Law 5/1985 of 19 June on the General Electoral System guaranteeing the right to vote for all people with disabilities (<i>Ley Orgánica 2/2018, de 5 de diciembre, para la modificación de la Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General para garantizar el derecho de sufragio de todas las personas con discapacidad</i>)	Grants the right to vote to persons under guardianship

Source: FRA (2019)

The process in **Denmark** was more iterative and less far-reaching. Legal amendments enacted in 2016 mean that persons under full legal guardianship are entitled to vote and run for election in municipal, regional and European Parliament elections.¹³ However, the amendment highlighted the challenge of severing often long-standing and deeply rooted links between legal capacity and the right to vote: it did

not grant the right to vote in elections to the Danish Parliament or referendums as this, according to the Ministry of Justice, violated the country's constitution. The discrepancy in the situation for different elections in Denmark returned to the fore in January 2018, when the Supreme Court ruled in a case on the right of persons with disabilities to vote in parliamentary elections (see table 2).



Table 2: National jurisprudence concerning the right to vote of people deprived of legal capacity since 2014

EU MS	Date of ruling	Court and case number	Summary of the ruling
CZ	15 February 2017	Supreme Court, case no. Cjpn 23/2016	The court accepted that, under the 2014 Civil Code, a civil court may restrict the right to vote after passing a decision on a person's legal capacity. It ruled, however, that this must be judged individually, be temporary and be done explicitly in the verdict. The Supreme Court viewed this as in accordance with the CRPD.
DE	29 January 2019	Federal Constitutional Court, case no. 2 BvC 62/14	The court found that provisions on disenfranchisement from voting of persons placed under full guardianship pursuant to Article 13 (2) of the Federal Elections Act and of criminal offenders confined in a psychiatric hospital pursuant to Article 13 (3) of the same act are unconstitutional. It found that the group of persons affected by Article 13 (2) is determined in a manner that violates the right to equality without sufficient factual reasons.
DK	18 January 2018	Supreme Court, case no. 159/2017	According to section 29 of the Danish Constitution combined with section 1 of the Danish Parliamentary Election Act and section 6 of the Danish Guardianship Act, persons under guardianship who are deprived of their legal capacity were excluded from the right to vote in parliamentary elections. The court ruled that Section 1 of the Danish Parliamentary Election Act is in accordance with section 29 of the Danish Constitution. In addition, excluding the plaintiffs from voting was neither in violation of Article 3 of Protocol 1 of the European Convention on Human Rights nor Articles 12 and 29 of the CRPD. After the judgment, both the Guardianship Act and the Parliamentary Act were amended (see table 1).
ES	28 November 2016	Constitutional court, case no. 196/2016	The court found that constitutional model of universal suffrage is not <i>per se</i> incompatible with an individual deprivation of this right. The courts can restrict the right to active suffrage for reason of a person's capacity, after an incapacitation process (or internment due to psychiatric disorder). The decision does not depend solely on the person having certain knowledge or instruction. Such knowledge is one factor among others, especially medical evidence, that can reasonably be used to assess ability to understand and to want to vote.
SK	22 March 2017	Constitutional Court, case no. I. ÚS 624/2016-18	The court found that the provision of the Law on the conditions for the exercise of the right to vote which restricted the right to vote of those deprived of legal capacity is not consistent with the Constitution and international human rights documents, including Article 29, in conjunction with Articles 5(1) and 5(2) and Article 12 of the CRPD. As a result, the provision was struck down and all persons with disabilities deprived of legal capacity are allowed to vote in all types of election.

Source: FRA (2019)

The ruling prompted responses from both parliament and the government, resulting in a proposal for a new legal model introducing partial deprivation of legal capacity. Individuals under this new, less restrictive form of legal incapacity, retain their right to vote in parliamentary elections. Following a public consultation, the bill was adopted unanimously by the Danish parliament in December 2018 and entered into force on 1 January 2019.¹⁴ An accompanying bill to give Danish citizens deprived of legal capacity who live abroad the right to vote in European Parliament elections was adopted at the same time.¹⁵

Reforms in **Germany** concern the right to vote in national, state and municipal elections. The Federal Constitutional Court ruled in January 2019 that provisions on disenfranchisement from voting of persons placed under full guardianship were unconstitutional (see table 2).¹⁶ In addition, five of the 16 federal states have lifted exclusionary provisions and now allow people under legal guardianship in

all affairs to both vote and stand for election in state and municipal elections (see table 1). Bills to amend electoral law have also been tabled in the states of Berlin and Thuringia.¹⁷ Persons under legal guardianship in all affairs are still prevented from voting in European elections, however. Data provided to FRA suggests that this applies to 6.3% of persons under guardianship.¹⁸

Legal changes in **Belgium** also retain restrictions on the right to vote. From 1 September 2019, persons with 'prolonged minority' status will no longer be automatically deprived of the right to vote. Instead, the judge deciding whether to deprive an individual of their legal capacity will determine whether this includes preventing them from exercising the right to vote. This decision would cover all types of election.¹⁹

In addition to these legislative reforms, key judgements at the national level in a further two

EU Member States have also impacted the right to vote of people deprived of legal capacity (see table 2). The most far-reaching change is in **Slovakia** where, following a request from the General Prosecutor, the Supreme Court struck down as unconstitutional the provisions tying the right to vote to legal capacity.²⁰ The ruling covers all types of election. The **Czech** Supreme Court, however, upheld existing national legislation stating that lack of legal capacity is a legitimate grounds for restrictions on an individual's voting rights.²¹ It emphasised that any decision to remove the right to vote of persons under guardianship must be taken on an individual basis. Despite their different interpretations, both rulings – and that by the German Constitutional Court – referred to the CRPD.

What does European jurisprudence say about the right to vote?

The European Court of Human Rights (ECtHR) has consistently ruled that, although the right to vote contained in Article 3 of Protocol No. 1 of the ECHR is not absolute, limitations must not impair the very essence of the right and deprive it of its effectiveness.²² The key judgment concerning the right to vote of persons with disabilities remains the 2010 *Alajos Kiss v. Hungary* case, in which the ECtHR unanimously found a violation of the right to free elections. It held that indiscriminately removing voting rights “without an individualised judicial evaluation and solely based on a mental disability necessitating guardianship, cannot be considered compatible with the legitimate grounds for restricting the right to vote”.²³

The ECtHR is currently considering two other cases regarding the link between legal capacity and the right to vote.²⁴ Any future judgment on these cases will further clarify the court's position and indicate any evolution in its apparent acceptance that an individualised judicial decision could restrict the right to vote of persons with disabilities.

In May 2018, the Council of Europe Commissioner for Human Rights intervened as a third party in the ECtHR proceedings in the *María del Mar Caamaño Valle v. Spain* case.²⁵ The case concerned the deprivation of the right to vote of a person with intellectual disabilities. For more information, see Promising practice *Every vote counts*.

Reforms are at the proposal stage in several additional Member States. The **French** State Secretary for Persons with Disabilities has stated that: “legislation cannot on the one hand assert that people with disabilities are citizens like any other, and on the other hand take away from them the most emblematic attribute of citizenship”.²⁶ This commitment is reflected in the draft Law on 2018-2022 programming and reform of justice, which proposes to remove the prohibition on adults under guardianship voting.²⁷ If adopted before 26 May 2019, this provision would apply immediately, including for the European elections to be held on that date.

In addition, there is some evidence of missed opportunities to ensure the right to vote is taken into account in other reform processes. **Portugal**, for example, introduced a new legal regime – Legal System of the Major Accompanied – which “eliminates the institutes of interdiction and disqualification”. The electoral law, however, maintains limitations on the right to vote of citizens recognised as “demented”.²⁸

Looking in detail at provisions covering the accompanying right to stand for election is beyond the scope of this paper. However, a few examples indicate that provisions are often more restrictive than for the right to vote. Persons under guardianship can vote in all elections in **Finland**. However, they are constitutionally barred from standing for election to the national and European Parliament.²⁹ Similarly, **Ireland** does not restrict the right to vote on the basis of disability. However, the Electoral Act prohibits a person of “unsound mind” standing for election to the lower chamber of parliament.³⁰ This provision will be repealed when the Disability (Miscellaneous Provisions) Bill 2016 is signed into law.³¹

There is also evidence of some inconsistencies. **Croatian** legislation enables persons deprived of legal capacity to stand for election to the European Parliament. However, the same Act stipulates that a Member of the European Parliament's term of office will expire early if they are deprived of legal capacity by a final court order.³²



Many actors, one voice calling for change

As FRA's 2015 paper on legal reforms in EU Member States linked to ratification of the CRPD showed, adoption of international commitments can spur wide-ranging and systematic processes of change at the national level.³³ The efforts needed to make these changes extend far beyond acceding to such standards, however. This section highlights four important and interrelated drivers of reforms to realise the right to vote of persons with disabilities:

- Interpretation by the Committee on the rights of persons with disabilities (CRPD Committee);
- Strategies on or covering political participation of persons with disabilities;
- Monitoring by the frameworks established under Article 33(2) CRPD; and
- Civil society engagement.

As shown above, a fifth key driver is national jurisprudence. Landmark cases in several Member States have resulted in changes to law and/or practice.

Both the CRPD Committee's authoritative interpretation of the CRPD's requirements and its recommendations to States parties on how to better implement the Convention consistently call for the right to vote to be delinked from any decision regarding legal capacity. Its overall guidance is set out in the 2014 general comment on Article 12 of the convention, which forcefully reiterates the importance of ensuring that people deprived of legal capacity do not as a consequence lose the right to vote.³⁴ This has translated into specific recommendations for national legislative changes. For example, the CRPD Committee's four concluding observations on EU Member States in 2018 (**Bulgaria, Malta, Poland and Slovenia**) each called for steps to ensure persons deprived of legal capacity can vote. It urged Poland to "repeal all provisions that deny [...] persons deprived of legal capacity their right to vote and all other political rights"³⁵ and recommended that Bulgaria "amend its legislation and

[enable] all adult persons with disabilities to exercise their rights to vote and to stand for election".³⁶

The impact of the CRPD Committee's guidance is clear: several of the explanatory notes accompanying amendments to legislation on the right to vote make direct reference to the CRPD or the CRPD Committee's recommendations.³⁷

Strategies are a way to highlight legislative and policy priorities, and can act as catalysts for change. At the European level, both the Council of Europe's Disability Strategy 2017-2023³⁸ and the EU Disability Strategy 2010-2020³⁹ include measures related to the political participation of persons with disabilities. The issue is also reflected in national disability strategies. In the **Czech Republic**, where the Election Act prohibits people with disabilities deprived of legal capacity from voting, the disability strategy states that the government will "[a]nalyse the feasibility of removing barriers that prevent persons with disabilities from performing their right to vote due to restrictions in their capacity."⁴⁰ The **Croatian** National Strategy for Equalisation of Opportunities for Persons with Disabilities 2017-2020 sets out specific objectives aimed at ensuring the electoral process is fully accessible and facilitating the participation of persons with disabilities in representative and executive bodies.⁴¹

The monitoring frameworks established under Article 33(2) of the CRPD have also played an active role in advocating for restrictions on the right to vote to be lifted. In 2016, the **German** Institute for Human Rights criticised the country's second national action plan on CRPD implementation for lacking sufficient proposals to address reforms of the electoral law to abolish the exclusion of certain groups of persons with disabilities from the right to vote.⁴² The Constitutional Court ruling in January 2019, which declared restrictions on the right to vote in national elections for people under full guardianship unconstitutional, made reference to the German institute's position that the existing legislation violated Articles 12 and 29 of the CRPD.⁴³ For its part, the **French** National Consultative Commission on Human Rights called

for repeal of the provision of the Electoral code preventing adults under guardianship from voting.⁴⁴ This recommendation is reflected in the draft legislation proposed in 2018 (see above).

Promising practice

Every vote counts

The Spanish disabled persons' organisation *Plena Inclusión* has led a multiyear effort to secure the right to vote for persons with disabilities. In 2011, it launched the "*Mi Voto Cuenta*" (My vote counts) campaign to raise awareness of the right to vote for everyone and to put politicians in contact with voters with intellectual disabilities. The campaign empowered people with disabilities and their families by enabling self-advocates to present their demands for political participation, and helped to make the electoral process more accessible by encouraging political parties to provide information in easy read format.

More recently, it took action in response to the Spanish Constitutional Court's decision to deny the Caamaño family's request to allow their disabled daughter Mara to vote without having to take an exam on her knowledge of political parties and the value of money. Other citizens do not have to take this test before exercising their voting rights. In February 2017, *Plena Inclusión*, the *Comité Español de Representantes de Personas con Discapacidad* and *Down España* organised a protest in front of the Court to reclaim voting rights for people with disabilities, attended by more than 500 people.⁴⁵

For more information, see: Mi Voto Cuenta; Spain, Tribunal Constitucional (Constitutional Court) (2016), Auto 196/2016 de 28 de noviembre 2016, ECLI:ES:TC:2016:196A.

Finally, civil society organisations – including disabled persons' organisations (DPOs) – have been at the forefront of many reform processes, using a number of different approaches. DPOs have engaged in actions for reforms addressing directly the institutions making and enforcing law. In 2017, before the **Czech** Supreme Court ruling on the right to vote of persons deprived of legal capacity (see table 2), six NGOs submitted an open letter criticising arbitrary

and unchallengeable decisions on the right to vote of people under guardianship.⁴⁶ In **Spain**, for example, the joint effort of DPOs, parliamentary groups and political parties contributed to the reforms restoring the right to vote to people under guardianship (see promising practice *Every vote counts* and tables 1 and 2).

These factors often work in tandem to drive legal change. For example, stronger international standards in the form of the CRPD can prompt interpretation by the courts and result in new domestic legislation. Alternatively, domestic pressure from national human rights bodies and civil society organisations, drawing on recommendations from the CRPD Committee, can act as a catalyst for government action.

Promising practice

Bringing disability into election monitoring

The Organization for Cooperation and Security in Europe's Office for Democratic Institutions and Human Rights (ODIHR) is stepping up efforts to fully integrate the rights of persons with disabilities in its work. In 2017, it published a handbook to establish a more systematic and comprehensive approach to the participation of persons with disabilities in ODIHR's election observation methodology. It provides a framework to assist election observers in assessing the participation of persons with disabilities. It is also finalising guidelines on promoting political participation of persons with disabilities for political parties and national parliaments. This tool aims to strengthen the ability of regional and national democratic institutions to engage and empower persons with disabilities in political processes. FRA provided input to both publications, drawing on the Agency's human rights indicators on the right to political participation of persons with disabilities.

For more information, see: ODIHR (2017), Handbook on observing and promoting the electoral participation of persons with disabilities; ODIHR (forthcoming), Guidelines for promoting political participation of persons with disabilities.

Towards full political participation across the EU in 2019

Having the legal possibility to vote is just one aspect of the right to political participation. FRA collected data on national activities aimed at promoting the right of persons with disabilities to vote and/or stand for election in the 2019 European Parliament elections. Many of these efforts focus on different aspects of improving the accessibility of electoral processes. As such, they are relevant to all persons with disabilities irrespective of the type of impairment.

A few examples show the wide range of such initiatives, grouped under the four key components of realising the right to political participation identified by FRA's 2014 human rights indicators:

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

Many of these actions also reflect recommendations to Member States from the CRPD Committee.

Lifting legal and administrative barriers to political participation

Several Member States have taken steps to lift some of the legal and administrative barriers to voting. A draft law covering all elections in **Lithuania** would ensure that polling booths are tailored to the needs of people with disabilities and that they can vote in secret. The legislation is expected to come into force on 1 July 2019.⁴⁷ In **Luxembourg**, a working group of government officials and other partners is working on a solution to enable people with psychosocial disabilities, or limited reading and writing skills to vote independently, without the assistance of a third party.⁴⁸

Taking a different approach, new rules on assistance in voting and aids in the voting booth were introduced in **Denmark** in 2017.⁴⁹ Previously, assistance in voting was either given by two election officials

or by one election official and a person of the voter's choice. Now, voters in need of support to cast their vote can demand to be assisted only by a person of their choice. Furthermore, aids in the voting booth will enable some voters to cast their vote without assistance. The **Dutch** Ministry of the Interior and Kingdom Relations is looking to introduce changes to allow voters to be assisted in the voting booth and to allow early voting.⁵⁰ As these measures require changes to legislation, they will not be adopted before the elections in 2019.

EU institutions: taking steps to prepare for the 2019 European Parliament elections

EU institutions have been preparing for the May 2019 elections with a number of initiatives. In November 2017, the European Parliament called on the Commission, as part of its series of regular reports on the implementation of Council Directives 93/109/EC and 94/80/EC, to include an assessment of whether they are being interpreted in a manner consistent with Article 29 of the CRPD. It also noted that "legal capacity is one of the prerequisites for the enjoyment of human rights, including the right to vote" and that the "EU should adopt appropriate measures to ensure that all persons with disabilities can exercise all the rights enshrined in European Union treaties and legislation, such as [...] voting in European elections".⁵¹

The European Parliament followed this up with a debate on participation of persons with disabilities in the European elections in July 2018.⁵² During the discussion, Commissioner Věra Jourová emphasised that the Commission's actions support and supplement national policies and programmes to promote political participation and the electoral rights of under-represented groups, including persons with disabilities. She indicated that the Commission will look into the possibility of using EU funds for this purpose, including supporting civil society to work with people with disabilities in this area.

Since 2017, a European Economic and Social Committee Study Group has been drafting a report on how European Parliament election procedures are determined at the national level and how the needs of persons with disabilities are taken into consideration.⁵³ It calls on the EU institutions to take measures to accelerate the process of changes in Member States' legal systems leading to the abolition of legal restrictions on the right to vote of persons with disabilities. The report will be submitted for adoption in March 2019.

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

Initiatives to increase awareness of the right to vote take several different forms. The 2018 budget bill in **Sweden** announced the government's intention to fund activities to increase voter turnout in the 2019 European Parliament elections.⁵⁴ Ahead of the 2014 European Parliament elections, the government supported measures including school elections, project funding for civil society organisations and special funds to political parties for information campaigns to increase turnout among population groups less likely to vote. In the **Netherlands**, various municipalities, often in cooperation with DPOs, launch campaigns or provide workshops ahead of elections. The government is also considering updating a website for voters with psychosocial disabilities developed in 2018, which explains how voting works and allows visitors to practice voting.⁵⁵

Civil society organisations have a crucial role to play in such activities (see also promising practice). The DPO for persons with intellectual disabilities Inclusion **Ireland** has developed training and developed an easy read publication on voting.⁵⁶ The **Belgian** equality body has launched a campaign highlighting that persons with disabilities have the same right to vote as everyone else, which includes testimonies from persons with disabilities.⁵⁷

Promising practice

Strong commitment of the European disability movement

On 6 December 2017, delegates at the 4th European Parliament of Persons with Disabilities adopted the European Disability Forum Manifesto on the European Elections 2019. The manifesto calls on EU political leaders to ensure that persons with disabilities enjoy their political rights on an equal basis with others through a range of actions, including ensuring that: persons with disabilities have the right to vote and the right to run as a candidate for elections; and polling stations and campaign materials and events are fully accessible.

For more information, see: EDF Manifesto on the European Elections 2019 adopted by the 4th European Parliament of Persons with Disabilities.

Making voting procedures, facilities and election materials more accessible

Actions to improve the accessibility of information and the physical environment concerning elections, in particular polling stations, are widespread. In **Latvia**, the Central Election Commission's website provides information on the nature of elections in easy read.⁵⁸ The **Finnish** Ministry of Justice cooperates with relevant civil society organisations to prepare election guidelines and candidate lists in Braille, and a video on elections in Finnish Sign Language.⁵⁹ In addition to information in easy read and videos in Sign Language, the **Austrian** Ministry of Interior is preparing downloadable audio files with information and instructions on the voting process for persons with visual impairments.⁶⁰

Turning to physical accessibility, the **Luxembourg** government introduced a draft law to ensure the accessibility of all places open to the public, including polling stations. In addition, tactile voting devices with appropriate additional texts in Braille will be available for the 2019 European Parliament elections.⁶¹

Expanding opportunities for participation in political life

FRA research shows that persons with disabilities are underrepresented among elected officials. Estimates indicate that just ten persons with disabilities will run for office at the **Maltese** local council elections, which will coincide with the European Parliament elections.⁶²

Despite ongoing restrictions on the right to stand for election, a number of Member States took action to support persons with disabilities to stand for office. The **Dutch** government is conducting research on the obstacles politicians with disabilities face and what measures need to be taken in order for them to participate and carry out their duties. Politicians and candidates with disabilities, as well as DPOs, will be interviewed.

Another option is to introduce support schemes for candidates with disabilities. For the 2015 General Election in the **United Kingdom**, prospective candidates with disabilities standing for election could access grants of between £250 and £40,000 for disability-related costs including specialist transport, screen reader software, sign language interpretation and Braille transcription⁶³. Although the UK will not participate in the 2019 European Parliament elections, the programme will apply to the 2019 local elections.



Endnotes

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Further information:

The right to political participation of persons with disabilities

In 2014, the agency developed and populated human rights indicators on the right to political participation of persons with disabilities:

- The full report on *The right to political participation for persons with disabilities: human rights indicators*
- The summary report available in 22 EU languages
- The online indicator explorer

In addition, FRA published five infographics to help raise awareness of the voting rights of people with disabilities among key actors.

- Voting rights for people with disabilities – what you need to know
- Support organisations – how can you help people with disabilities to vote?
- Political parties – the votes of people with disabilities count too
- Parliaments – how can you encourage more people with disabilities to vote?
- Election authorities – what can you do to get more people with disabilities to vote?

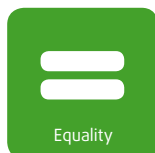
All the infographics are available in 22 EU languages.

In 2010, FRA published the report *The right to political participation of persons with mental health problems and persons with intellectual disabilities*, which is available in 21 EU languages and in easy read.

For an overview of FRA activities on the rights of people with disabilities, see: <https://fra.europa.eu/en/theme/people-disabilities>.



People with disabilities



Equality



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