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Committee on Equality and Non-Discrimination Commission sur l'égalité et la non-discrimination

The political rights of persons with disabilities: a democratic issue /

Les droits politiques des personnes handicapées: un enjeu démocratique

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Replies sent by national parliaments to the questionnaire /

Réponses au questionnaire envoyées par les parlements nationaux

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1. ALBANIA / ALBANIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

We have adopted the UN Convention on the Rights of Persons with Disabilities.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

In its reply, the Parliament of Albania refers to the United Nations Convention on the Rights of Persons with Disabilities.

According to Article 12 of the Convention:

Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

3. How many members of parliament have declared some form of disability?

None of them has any form of disability.

4. How many persons with disabilities hold ministerial positions?

Only one, Ms. Bardhylka Kospiri. The vice-minister of the Ministry of Social Welfare and Youth.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

No specific measures are undertaken. According to Article 29 of the Convention:

Participation in political and public life

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

- (a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

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

2. ANDORRA / ANDORRE

1. Votre pays dispose-t-il d'une législation particulière concernant les droits politiques et la participation des personnes handicapées ? Pourriez-vous préciser ce que couvre cette législation et quelles garanties sont données ? Si vous avez déjà envoyé une réponse à la requête 2956, nous vous serions reconnaissants de bien vouloir indiquer s'il y a eu des changements législatifs depuis 2015.

Non, Andorre ne dispose pas d'une législation particulière concernant les droits politiques et la participation des personnes handicapées. Cependant, Andorre a signé le 27 Avril 2007, la Convention relative aux droits des personnes handicapées et du Protocole facultatif, fait à New York le 13 Décembre 2006. Postérieurement l'Andorre a ratifié cette Convention le 10 Octobre 2013. Sur ce sujet donc, est uniquement d'application l'article 29 de la Convention sur la participation à la vie politique et à la vie publique des personnes handicapées.

2. Le droit de voter et celui d'être élu sont-ils liés à la capacité juridique ? Si tel est le cas, de quelle manière ? Lorsqu'une personne est privée de son droit de voter et d'être élue, cette décision est-elle réévaluée régulièrement ?

Oui.

L'article 1r de la Loi du régime électoral et du referendum, prévoit que le suffrage est universel, libre, égal, direct et secret. Il comprend également le droit de vote, qui s'applique à tous les Andorrans avec la pleine utilisation de leurs droits civils et politiques.

En outre, l'article 1.3 de la même Loi prévoit que les personnes déclarées incapables de jugement définitif n'ont pas le droit de voter, à condition que cette décision déclare expressément l'incapacité d'exercer le droit de vote. Ces personnes n'ont pas le droit à être élus (articles 15 et 25 de la Loi du régime électoral et du referendum).

3.4. Combien de membres du parlement ont déclaré une forme quelconque de handicap ? Combien de postes ministériels sont occupés par des personnes handicapées ?

Aucun.

5. Quelles mesures concrètes sont prises pour garantir la participation des personnes handicapées à la vie politique et publique, y compris au sein des partis politiques, des organisations non-gouvernementales et des associations ? Les matériels de campagne et/ou électoraux sont-ils systématiquement accessibles aux personnes handicapées (versions faciles à lire, braille, sous titres, etc.) ?

Pour l'instant il n'y a pas de mesures concrètes prises.

3. AUSTRIA / AUTRICHE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Austrian Federal Law generally does not provide for specific legislation concerning political rights and participation for persons with disabilities. Instead, specific Anti-Discrimination Law is in force since 2006, which bans discrimination on the grounds of disability and addresses the federal system (e. g, voting in elections) as well as the private sector (both consumers as well as employees).

The Austrian answer to ECPRD request 2956 on "Participation in the elections of people with disability" is still up to date. Since 2015 there haven't been legislative changes in this matter.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Regarding federal elections, the right to vote or the right to be elected is not linked to legal capacity with consideration of disability. The right depends on age, citizenship and a good repute.

3. How many members of parliament have declared some form of disability?

To the knowledge of the Austrian Disability Ombudsman, there are currently 3 MPs who declared a disability. However, there are no official records.

4. How many persons with disabilities hold ministerial positions?

As with members of parliament, no records exist on persons with disabilities in ministerial positions.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The National Action Plan for Persons with Disabilities (2010-2020) states that information for elections as well as elections themselves should be made accessible. Further provisions regarding accessible polling stations are made in according law.

Details can be found in the Austrian answer to ECPRD request 2956 on "Participation in the elections of people with disability".

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Yes, all Austrian electoral laws (federal, provincial, municipal) comprise provisions for the facilitation and assistance of voting. The elections authorities have to supply ballot paper templates in order to make it possible for voters who are blind or visually impaired to cast their vote autonomously. Physically or mentally handicapped voters or those with visual difficulties can be assisted in the casting of their vote by a person chosen and confirmed by them to the returning officer. Further on, there are special regulations regarding the exercise of the right to vote in hospitals and nursing homes and for bedridden patients. Also, the local election authorities have to make sure that polling stations are accessible and preferably barrier-free. In principle, all provisions follow the example of the following regulations of the Federal Law on National Council Elections (Nationalratswahlordnung 1992):

Exercising the right to vote in person

§ 66. (1) Voting has to be done in person; the elections authorities have to supply ballot paper templates in order to make it possible for the voters who are blind or visually impaired to cast their vote autonomously. Physically or mentally handicapped voters or those with visual difficulties can be assisted in the casting of their vote by a person chosen and confirmed by them to the returning officer. Except in the cases described above only one person should enter the polling booth at any one time.

(2) Voters who are unable to fill in an official ballot paper without the help of another person are considered to be handicapped or having visual or auditory difficulties.

(3) In the case of doubt, the elections authority shall decide on the permissibility of using an accompanying person. Every vote cast with the assistance of an accompanying person is to be entered into the record.

(4) Any person who pretends to be blind, hard of hearing or otherwise handicapped commits a violation of the official regulations and will be punished by the district administrative authority by a fine of up to 218 euros in default of payment with a prison sentence of up to two weeks.

(5) Further regulations concerning the casting of a vote by patients in hospitals or nursing homes are set out in § 72.

Section 4 - Special facilities for exercising of the right to vote

Exercising the right to voting by patients in hospitals and nursing homes

§ 72. (1) In order to facilitate the casting of votes by patients in hospitals and nursing homes, the municipal elections authorities and in the City of Vienna the Vienna City Administration, may set up one or more special wards in the area of these institutions. In these cases the regulations set out in § 52 and § 54 are to be taken into consideration. The acceptance of votes that are cast by other persons present in hospitals and nursing homes is permissible.

(2) If wards are formed according to para 1, the patients who are able to walk have to cast their votes in the polling station administered by the respective ward elections authorities in accordance with para 1. The same applies to patients who are able to walk who cast their vote by means of voting card.

(3) In order to collect the votes of bedridden patients in the institutions mentioned above, the responsible district elections authority according to para 1 can also enter into the rooms of the patients concerned. In such cases appropriate facilities have to be set up (such as for example a wooden frame covered with material, or a similar device) to ensure that the patient can fill in the ballot paper and put it in an envelope given to them by the returning officer, without being observed by any other person in the room.

(4) Furthermore, provisions of this federal law, and especially those in § 39 and § 40 as well as § 68 and § 70

concerning the participation in the elections and the exercising of the right to vote by voting card, must also be observed by voting according to paras 2 and 3.

Exercising the right to vote by bedridden patients and voters who are otherwise incapacitated voting with voting cards

§ 73. (1) In order to facilitate the casting of a vote by voters voting by a voting card issued to them on demand according to § 38, para 2, the municipal elections authorities and in Vienna the Vienna City Administration have to set up, not later than on the twenty-first day before election day, special elections authorities which visit these voters during the settled time of voting. The presence of election witnesses and of a maximum of two accredited persons referred to in § 20a, para 3, is permissible. The regulations set out in § 52 and § 54 have to be applied accordingly.

(2) When voting in the presence of the special elections authorities the regulations set out in § 72, paras 3 and 4, are to be applied accordingly. The acceptance of votes that are cast by other persons present during the casting of votes by voters voting with voting card who are bedridden or otherwise incapacitated is permissible.

(3) The verification of the ballot papers by the special elections authorities is only concerned with the remarks set out in § 84, para 2. The ballot paper envelopes of the voters voting with voting cards, according to § 38, para 2 from other regional constituencies are to be counted separately and to be presented to the elections authorities acting according to para 4 separately. Concerning the record of the special elections authorities, § 85, para 2, items a) to i), para 3, items a) to d) and g), as well as para 4 are to be applied accordingly.

(4) In the interest of maintaining the secrecy of the vote, the municipal elections authorities and in Vienna the Vienna City Administration have to select the elections officials who are to find out the election results recorded by the special elections authorities. These elections officials have to then add the sealed envelopes taken from the bedridden patients or the voters who are otherwise incapacitated from the respective regional constituency to their own election results so that these cannot be differentiated. The ballot paper envelopes from bedridden patients and voters who are otherwise incapacitated from other regional constituencies have to be treated according to the regulations set out in § 84, para 3, and § 85, para 3, item h). The ballot papers and records of the special elections authorities have to be presented to the respective elections authorities determining the election results and form part of their election files.

Exercising the right to vote by incapacitated voters

§ 74. In order to facilitate the voting by voters kept in prisons, penitentiaries or who are in offender's institutions, the municipal elections authorities and in Vienna the Vienna City Administration can set up one or more special wards on the premises of these institutions. In this context, the provisions governing the exercise of voting rights by patients in hospitals and nursing homes (§ 72) are to be observed accordingly.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

4. BELGIUM / BELGIQUE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Please refer to our reply to request 2956 on voting facilities and assistance for persons with disabilities. There have been no legislative changes since 2015.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Until recently, all persons lacking legal capacity under a protective measure were automatically deprived of the right to vote. (Persons deprived of the right to vote cannot be elected.)

In 2014 new legislation "reforming incapacity regimes and introducing a new safeguarding status in accordance with human dignity", entered into force. Under the new legislation the principle of autonomy of persons with mental disabilities is promoted and a presumption of capacity is introduced. A persons with disabilities under a protective regime will have full political rights, unless the justice of the peace, when establishing the regime, has specifically declared the protected person incapable of exercising the right to vote. A safeguarding regime can be ordered for a maximum period of two years, after which it has to be reviewed.

3.4. How many members of parliament have declared some form of disability? How many persons with disabilities hold ministerial positions?

There are currently no members of the Senate who have declared a form of disability.
There are no official records on persons with disabilities in ministerial positions.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Belgium is a federal state. Disability policy is divided over several competence levels and many bodies are involved.

For a general view, please refer to the Belgian report on the Implementation of the Convention on the Rights of Persons with Disabilities (paragraphs 163-168 deal with "Participation in political and public life"):

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CRPD%2fC%2fBEL%2f1&Lang=en

See also the discussion of the report in the Committee on the Rights of Persons with Disabilities (14 September 2014):

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15073&LangID=E>.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

Voters who, on account of a disability, are unable to enter the voting booth or to cast their vote without assistance may be accompanied by a person of their choice, with the authorization of the president of the polling station. Both persons' names shall be recorded in the minutes. (Article 143 par. 5 of the Electoral Code). Article 147, § 1, par. 1, 1°, of the Electoral Code provides for proxy voting by voters who, due to a disability, cannot attend the polling station.

On a more practical level, the instructions for the presidents of the polling stations (issued by the Ministry of the Interior on the occasion of federal, regional and European elections) provide detailed guidelines and hints concerning the accessibility and the design of the polling station (parking space, chairs, special voting booth) and concerning the contact with voters (extra efforts to encourage and help voters with a physical or mental disability).

5. BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Bosnia and Herzegovina does not have specific legislation with regard to the political rights and participation of persons with disabilities. The universal suffrage (right to vote and right to be elected) in Bosnia and Herzegovina is regulated by the Election Law of Bosnia and Herzegovina. The Law does not deny persons with disabilities the right to vote and to be elected (the active voting right and the passive voting right), except in case when a person has been deprived of full legal capacity by the final and binding decision of a competent authority. The persons with disability who require assistance or a mobile team are provided with such aid in order to vote.

Relevant legal provisions related to the political rights of persons with disabilities

The Election Law of Bosnia and Herzegovina

Article 1.4

(1) Each citizen of Bosnia and Herzegovina (hereinafter: the B&H citizen) who has attained eighteen (18) years of age shall have the right to vote and to be elected (hereinafter: right to vote) pursuant to this law.

(2) To exercise his or her right to vote, a B&H citizen must be recorded in the Central Voters' Register, pursuant to this law.

Article 3.2

(3) The Central Voters Register shall not contain names of B&H citizens whose full legal capacity has been withdrawn by the final and binding decision of a competent authority. In the event that such a person has already been recorded, he/she shall be deleted from the Central Voters Register, whereas in the event that

the competent authority has issued the final and binding decision restoring his/her legal capacity, he/she shall be recorded in the Central Voter Register.

Article 3.14

(1) The Central Election Commission of B&H shall adopt regulations to determine the manner and procedure to draw up excerpts from the Central Voters Register in case of: homebound voters due to old age, illness or disability.

Article 5.19

(1) Upon request of voters who are blind, illiterate or bodily incapacitated, the President of the Polling Station Committee shall approve the procedure wherein another person, selected by the voter concerned, may assist the voter in signing the excerpt from the Central Voters Register, and casting his or her ballot.

(2) The helping person may not be a member of the Polling Station Committee, an accredited observer, or an observer of a political party, coalition, list of independent candidate or independent candidate.

(3) The person helping the voter shall print his or her name and sign the excerpt from the Central Voters Register next to the name of the voter whom he or she assisted. The person helping the voter does not need to be a registered voter.

(4) A person may, in terms of paragraphs (1) and (2) of this Article, help only one voter.

Article 5.21

(2) The Central Election Commission of B&H shall establish Regulations for voting by citizens of BiH, who have the right to vote and are homebound due to old age, illness or disability, or are prisoners or confined to institutions.

Article 5.22

(1) The Central Election Commission of B&H shall establish Regulations for counting ballots and establishing the voting results for ballots cast by voters who have voted by tendered ballots, absentee ballots, ballots cast by prisoners or voters confined to institutions, and homebound voters unable to come to the Polling Station due to age, illness or disability, and ballots cast by mail.

The Rulebook on Maintaining and Using the Central Voters' Register

Articles 18 and 19 of the Rulebook on Maintaining and Using the Central Voters' Register prescribe making of the excerpt from the final Central Voters Register for voters who are homebound due to illness, old age or disability, as well as for voters who are prisoners and confined to institutions and have the right to vote. This category of voters votes via mobile teams.

According to the Article 18 of the Rulebook, excerpts from the final Central Voters Register for voters who are homebound due to illness, old age or disability shall be prepared on the basis of information provided by the body that is responsible for social welfare, by other bodies that have information on these persons, and on the basis of expressed will on the part of this category of voters to vote in their homes on the Election Day, which shall be determined by a written statement of every voter and by the accompanying medical documentation about the illness or disability of the voter as a condition for his/her medical treatment in his/her home.

This Article also stipulates procedure and deadlines of the plan for visiting the voters who are homebound due to illness, old age or disability for the purpose of proposing recording them in the excerpt from the Central Voters' Register to vote via a mobile team, as well as drawing up the list of these voters which is delivered to the BiH Central Election Commission, which draws up the excerpt from the Central Voters' Register for this category of voters and delivers it to the competent election commission 10 days and no later than five days prior to the Election Day.

Similar procedure is prescribed by Article 19 of the Rulebook for voters who are prisoners or are confined to institutions (prisons, detention units, geriatric, muscular dystrophy or other medical institutions).

The Rulebook on Procedure of Conducting Elections in Bosnia and Herzegovina

Article 23 of the Rulebook on Procedure of Conducting Elections in Bosnia and Herzegovina prescribes assistance to a voter who is blind, illiterate or bodily incapacitated. According to this Article, during the voting a voter can get assistance by another person.

Article 26 of the Rulebook is related to the voting of voters with special needs. It regulates procedure for organization of mobile teams that shall visit this category of voters and make possible for them to vote. According to the Article 26 voters with special needs are voters who are homebound, confined to medical institutions, voters in prisons or detention units.

Instruction on Types of Polling Stations, Procedure and Deadlines for Designating Polling Stations

Article 5 of the Instruction on Types of Polling Stations, Procedure and Deadlines for Designating Polling Stations stipulates that the Central Election Commission of Bosnia and Herzegovina should take into account voters with disabilities when determining location of the polling station in accordance with Article 5.1, paragraphs (1) and (3) of the BiH Election Law, ensuring easier access for voters with disabilities to the polling station. The Election Commission shall no later than 15 days prior to the Election Day publish information on designated polling stations and their locations.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to the Article 3.2., point 3. of the Election Law, the Central Voters Register shall not contain names of B&H citizens whose full legal capacity has been deprived by the final and binding decision of a competent authority, which means those persons do not have right to vote and right to be elected. In the event that such a person has already been recorded, he/she shall be deleted from the Central Voters Register, whereas in the event that the competent authority has issued the final and binding decision restoring his/her legal capacity, he/she shall be recorded in the Central Voter Register.

Municipal courts and basic courts in Bosnia and Herzegovina are competent for proceedings of deprivation and restoration of legal capacity of B&H citizens. After receiving information about a person whose full legal capacity has been deprived, together with the final and binding decision on deprivation of legal capacity by competent court, the Central Election Commission of Bosnia and Herzegovina deletes the name of a person from the Central Voters Register. Also, the Central Election Commission of Bosnia and Herzegovina, after receiving a final and binding decision on restoring person's legal capacity, records a person in the Central Voters Register.

3. How many members of parliament have declared some form of disability?

During the previous mandate 2010 – 2014 one Member of Parliament had visual disability. This Member of Parliament had a personal assistant, which was financed by the Parliament. The Parliament also provided the appropriate computer and IT equipment necessary for the work of the Member of Parliament.

4. How many persons with disabilities hold ministerial positions?

This information is not available.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

In Bosnia and Herzegovina there are no specific provisions preventing the persons with disabilities to participate in the political life, except for the provision of Article 1.10 paragraph (1) point 5 of the Election Law of Bosnia and Herzegovina, which stipulates that the term of office of an elected member of a body of authority shall terminate before the expiration of the mandate for which he or she was elected on the day when a court decision becomes final and binding by which he or she has been deprived of legal capacity (declared mentally incompetent).

During the election campaign, the information is provided to all citizens through electronic media, sign interpreters, print media etc. In 2014 and 2016 the Central Election Commission of Bosnia and Herzegovina signed an agreement on services for producing audio version of Election Law for persons with disabilities. The strategies for improvement of the social position of persons with disabilities in FBH and RS have identified the need to provide active participation in the work of political parties, in political life and decision-making processes at all levels. Specific encouragement is given to the organisations of persons with disabilities to participate in public debates related to documents of importance for all citizens.

6. CROATIA / CROATIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The answer to this question is entirely contained in the Croatian reply to the ECPRD Request 2956. In this regard, there have been no changes in the Croatian electoral legislation.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The Constitution of the Republic of Croatia allows that the Croatian citizens' right to vote is regulated by law. The general constitutional framework that indicates the boundaries of permissible restrictions of political rights of persons deprived of legal capacity is regulated in the Article 16 of the Constitution as follows:

Freedoms and rights may only be curtailed by law in order to protect the freedoms and rights of others, the legal order, and public morals and health.

Any restriction of freedoms or rights shall be proportionate to the nature of the need to do so in each individual case.

In this sense, for example, the Act on Election of Representatives to the Croatian Parliament stipulates that representatives are elected to Parliament on the basis of universal and equal suffrage by all Croatian citizens aged 18 years or over (active voting right) and that Croatian citizens aged 18 years or over may stand for election to the office of representative (passive voting right). Therefore, there is no legal restriction in relation to the realisation of active and passive voting rights in relation to legal capacity.

Also, the Act on Election of Representatives to the Croatian Parliament stipulates that representative's mandate shall be prematurely terminated if the representative is deprived of the legal capacity by a court judgement with final force and effect. Termination of the mandate of the representative due to the deprivation of legal capacity is conditioned by and dependant on the court judgement with final force and effect. So in this legal situation, it is a question of a voter who previously exercised his/her passive voting right (right to be elected) and was elected to the Croatian Parliament, so this in no way affects the exercise of the right to be elected.

3. How many members of parliament have declared some form of disability?

11 representatives of the Croatian Parliament have declared some form of disability.

4. How many persons with disabilities hold ministerial positions?

None we are aware of.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Republic of Croatia adopted the National Strategy for the Equalization of Opportunities for Persons with Disabilities for the period 2007 to 2015. The basis for the adoption of the National Strategy was the Convention on the Rights of Persons with Disabilities and the Council of Europe's Action Plan to promote the rights and full participation in society of people with disabilities. The new national strategy for people with disabilities, which is being prepared, will be based on the results of the current strategy.

Since the voting of voters with physical disabilities and voters who cannot access the polling station is not regulated in detail in all electoral laws, State Electoral Commission before the elections brings the mandatory instructions. These instructions prescribe the same voting opportunities for voters with physical disabilities (blind persons, persons with no arms and so on) and the illiterate voters and the voters who due to severe illness, physical disability or disability cannot access the polling station (because they are in hospital, sick at home, because they are disabled, etc.). During the presidential elections of 2009 and 2010 for the first time the technical instructions of the State Electoral Commission enabled blind and visually impaired voters to vote in person by using the ballots in Braille, which was a progress in achieving the right to vote.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Croatian electoral legislation in a similar way, in all election laws¹, provides for certain particularities regarding the vote of people who are illiterate, ill, have a physical impairment and similar, in order to facilitate the exercise of the right to vote.

So for example, the *Act on the Election of Representatives to the Croatian Parliament* stipulates:

Article 83

A voter unable to vote in accordance with this Act as a result of a physical disability or illiteracy may be accompanied at a polling station by another literate person who shall by said voter's authorisation and instruction encircle the relevant answer.

A voter unable to appear at a polling station in person as a result of a serious illness, physical impairment or as a result of being infirm shall inform the electoral committee thereof at least three days before the election day or the electoral committee on the election day.

The competent electoral commissions shall submit the requests received from voters to vote outside the polling station to the competent electoral committees along with all of the electoral material.

¹ Act on the Election of Representatives to the Croatian Parliament, Republic of Croatia European Parliamentary Elections Act, Act on Local Elections and Act on the Election of the President of the Republic of Croatia.

The chairperson of the electoral committee shall designate at least two members of the electoral committee who shall visit the voter referred to in paragraph 2 of this Article and enable him to cast his ballot.

The voter referred to in paragraph 2 of this Article shall fold the ballot on which he cast his vote at least once, place it into a special envelope and close it. A member of the electoral committee shall hand over the envelope to the chairperson of the electoral committee on return to the polling station.

The chairperson of the electoral committee shall promptly place the folded ballot from the envelope into the ballot box at the polling station.

With respect to the realisation of the right to vote of voters who appear at the polling station, but who do not have access to the polling station, because of their physical disability or some other reason, the provisions of paragraphs 4, 5 and 6 of this Article shall apply.

Voting performed as stipulated in paragraphs 1 and 2 of this Article shall be recorded specifically in the minutes of the electoral committee.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

7. CYPRUS / CHYPRE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The Republic of Cyprus has no specific legislation for the political rights and participation of persons with disabilities, i.e they have the same rights as all other citizens.

Article 7 (a) of the Law on the Election of Members of the House of Representatives (Law 72/1979 as amended) regulates only certain practical details with respect to the accessibility of persons with disabilities to the voting procedure.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The grounds for the disqualification of persons with disabilities for registering as voters or standing as candidates are the same as for all other citizens of the Republic.

3. How many members of parliament have declared some form of disability?

During the last parliamentary term, there was only one member of parliament with a disability.

4. How many persons with disabilities hold ministerial positions?

None.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Measures to encourage persons with disabilities and developmental disorders in Cyprus to participate in political life and public affairs constitutes a priority for the Government, that aims at achieving equal opportunities for people with disabilities in all aspects of life, securing decent living conditions and full inclusion in society. In addition, it works to achieve positive measures which can bring people with disabilities nearer to the desired goal of equal opportunities. In this respect, public grant and benefits schemes, special and targeted education, public assistance targets for disabled persons, equality and positive discrimination in the workplace, social welfare benchmarks and the implementation of specific legislation all contribute to fostering a culture of inclusive participation for persons with disabilities. Furthermore, many national organisations and associations, particularly the Cyprus Confederation for Organisations of the Disabled, ensure that the human rights of disabled persons are upheld and that policies that contribute to the total inclusion of disabled persons in the social, financial, political and cultural life of Cyprus are maintained, and regularly assessed.

8. CZECH REPUBLIC / REPUBLIQUE TCHEQUE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees

are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The Czech Republic has no specific legislation for the political rights and participation of persons with disabilities, i.e they have the same right as all other citizens.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Yes, according to the Act No. 247/1995 Coll., on Elections to the Parliament of the Czech Republic (§2): Citizen shall be prevented from exercising his/her right to vote if he/she is incapacitated for the performance of all legal acts.

3. How many members of parliament have declared some form of disability?

Nobody.

4. How many persons with disabilities hold ministerial positions?

Nobody.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

There are no concrete measures for ensuring the participation of persons with disabilities in political life in case, which you mean. Only during the elections the persons with disabilities have special measures as for example voting outside a polling station or right to be accompanied to a voting booth by another voter (§19 subsection 6,7).

ECPRD No. 3117 3

Current version of the Act of Law No. 247/1995 Coll., on Elections to the Parliament of the Czech Republic:

<https://portal.gov.cz/app/zakony/zakonPar.jsp?idBiblio=43269&nr=247~2F1995&rpp=15#local-content>

Replies to ECPRD Request 2956

3. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

4. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

In general, the elections to the Parliament of the Czech Republic are based on the principles of universal, equal and direct right to vote and secret ballot. Every voter must vote personally, no representation is permissible. We have no quotas in the Czech electoral legislation.

Act No. 247/1995 Coll., on the Election to the Parliament of the Czech Republic

Article 19 (7) *Any voter may ask his/her local authority and – during the elections – also the relevant district election commission to be allowed to vote outside the polling station, at a place located in the area falling within the district election commission's territorial competence, due to serious, above all health-related, reasons. In such a case, the district election commission concerned shall send two of its members equipped with a mobile ballot box, an official envelope and ballot tickets to the place chosen by the voter. The members of the district election commission are obligated to proceed in compliance with the principles of secret ballot. Mobile ballot boxes may not be used for voting purposes outside the territory of the Czech Republic.*

9. DENMARK / DANEMARK

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

In addition to our reply to request 2956, it can be mentioned that according to The Folketing (Parliamentary) Elections Act section 49(Consolidated Act No. 369 of 10 April 2014)²:

² <http://elections.sim.dk/media/749578/consolidated-act-parliament-elections-incl.-chapt2-2014.pdf>

49.-(1) Voters who on account of disability, poor health or for similar reasons are unable to walk into a polling station or voting booth or in any other way are unable to vote in the prescribed way, cf. section 48, may request the assistance needed to cast their vote, cf. however subsection (4). This may call for the necessary modifications of the prescribed procedure and may entail access to cast one's vote immediately outside the polling station. (2) Assistance in voting is rendered by two polling supervisors or appointed electors. Instead of one of the supervisors or appointed electors the voter can demand assistance in voting by a person of his/her own choice. (3) A candidate standing for a party in the multimember constituency may not render assistance in voting as polling supervisor or appointed elector. (4) Assistance to cross off the ballot paper may be rendered only when the voter is able to indicate direct and unambiguously to those rendering assistance the party or candidate for which he wants to vote.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to the guardianship act section 6 (Consolidated Act No. 1015 of 20 August 2007) a person can be put under guardianship combined with deprivation of a person's legal capacity corresponds to what formerly constituted incapacitation of a person. If a person is under guardianship according to section 6, the person also loses the right to vote. The guardianship shall be removed when the conditions is no longer meet.

3. How many members of parliament have declared some form of disability?

There are no members with disabilities now. However, this session we had a temporary substitute with amyotrophic lateral sclerosis (ALS).

4. How many persons with disabilities hold ministerial positions?

None.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

In this session a motions for parliamentary resolution about helping people with disabilities at the polls was approved³. The motion states that the government has to put forward a proposal that allows people with disabilities to get the help to vote, that they themselves finds necessary. The motion also stated that electronic aids should be available to ease the disabled with voting.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

Ad. 1 Yes see the Election act part 8

(4) Voters who on account of illness or disability are unable to turn up at a polling station may vote in advance in their homes except where granted the opportunity of casting their vote in one of the institutions, housing or accommodation facilities specified in subsection (2). Requests for advance voting in the home must be submitted not later than by 1800 hours twelve days prior to the election day. http://www.thedanishparliament.dk/Publications/~media/PDF/publikationer/English/valgloven_eng_web_samlet%20pdf.ashx

Ad. 2 No.

10. ESTONIA / ESTONIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

³ B 32, session 2015-16 http://www.ft.dk/R1pdf/samling/20151/beslutningsforslag/B32/20151_B32_som_fremsat.pdf

Yes, the info provided for the Request nr 2956 is still valid and no major changes are occurred since then. Electoral law for local elections, elections to Riigikogu and European Parliament regulate that during in the act of voting " The voter shall complete the ballot paper himself or herself. If he or she is unable to complete the ballot paper himself or herself due to a physical disability, another voter, but not a candidate in the election district of his or her residence, may do so at his or her request and in his or her presence. "Please note that Estonia is also using electronic voting as an option of voting, and also Home voting is available, but they do not specifically provide any regulations for voters with disability.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Yes. According to § 58 of the Constitution of Estonia: "Any citizen of Estonia who has attained eighteen years of age is eligible to vote. A citizen of Estonia who has been declared by a court to lack legal capacity is ineligible to vote". The person can be declared as lacking of legal capacity only by the court. The term "lack of legal capacity is derived from the civil code of Estonia.

3. How many members of parliament have declared some form of disability?

This info is not publicly declared, but at least one MP has been declared as a person of hearing disability.

4. How many persons with disabilities hold ministerial positions?

None.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Very hard to estimate, because political campaigns and recruitment are conducted by the political parties. The public broadcasting of Estonia is providing subtitles for its programmes, including news, other programmes and during electoral debates on TV. Also, the building of the Riigikogu and other public institutions are being constantly renovated to accommodate people with disability. Also, the parliament has taken measures to provide help for the people of hearing disability regarding the debates at the plenary and the committees.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Yes. Electoral law for local elections, elections to Riigikogu and European Parliament regulate that during in the act of voting " The voter shall complete the ballot paper himself or herself. If he or she is unable to complete the ballot paper himself or herself due to a physical disability, another voter, but not a candidate in the election district of his or her residence, may do so at his or her request and in his or her presence."

Please note that Estonia is also using electronic voting as an option of voting, and also Home voting is available, but they do not specifically provide any regulations for voters with disability. You can find Riigikogu electoral law in English in here:

<https://www.riigiteataja.ee/en/eli/520012015018/consolide>

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

11. FINLAND / FINLANDE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The answer to ECPRD request n 2956 is still valid. There has been no legislative changes since then.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Only the right to be elected is linked to legal capacity.

On the right to vote: Constitution, Section 14.1: *Every Finnish citizen who has reached eighteen years of age has the right to vote in national elections and referendums. Specific provisions in this Constitution shall govern the eligibility to stand for office in national elections.*

Election Act, Section 2.1: *In parliamentary elections, the Presidential election and European Parliamentary elections, every Finnish citizen is entitled to vote provided the person has reached the age of 18 not later than on the day of the election. In the Presidential election, the voting age must be reached not later than on the day of the first round of the Presidential election.*

On the right to be elected: Constitution, Section 27.1: *Everyone with the right to vote and who is not under guardianship can be a candidate in parliamentary elections.*

On re-assessment of guardianship: According to Section 22 of the Guardianship Services Act, (1) *A court order on the restriction of someone's competency shall be valid for the time being or for a period set in the order,* and (2) *The restriction or its period of validity may be altered if changes in circumstances or other reasons so require. A restriction shall be lifted when it is no longer necessary.* According to Section 17 b of the Guardianship Services Act, the guardianship authority shall on its own initiative, during the fourth calendar year after the appointment of the guardian, inquire as to the continued need for guardianship and, where necessary, file a petition with a district court for the termination of the task of the guardian. The inquiry shall be repeated every fourth calendar year. There is no need for such an inquiry if the reason for guardianship is obviously permanent.

3. How many members of parliament have declared some form of disability?

We don't keep such a register.

4. How many persons with disabilities hold ministerial positions?

We don't keep such a register.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Ministry of Justice has been running a development project on how to ensure equal social participation rights to everyone. Part of this project has been to make voting easier for the disabled persons and to give plain language information on elections to them. The project tries to find out, among other things, how to ensure the blind persons' secrecy of the polls, how to solve the accessibility of voting facilities to disabled persons and how to still improve the disabled persons' transport services to polling stations. As part of this project an analysis will be made on Election Act, election instructions and election training from the disabled persons' point of view. Some of the goals of this project have already been put to practise, as the Ministry of Justice has started to give election information on plain language. There are also plain language election videos accessible on the Ministry's election website and their YouTube video channel. The Ministry has also started to publish recorded electoral rolls for the blind. In addition to the Ministry of Justice, other ministries and organisations have also been active in this field. In 2010 the Ministry of Social Affairs and Health gave out a publication *A Strong Basis for Inclusion and Equality - Finland's Disability Policy Programme VAMPO 2010–2015*⁴ (the English version is an abridgement of the Finnish and Swedish text), which had been prepared in co-operation with the Ministry for Foreign Affairs, Ministry of Justice, Ministry of the Interior, Ministry of Employment and the Economy and Ministry of the Environment. Partners also included important actors in the field of disability policy: Finnish Disability Forum, Association of Finnish Local and Regional Authorities, social partners, National Institute for Health and Welfare, and National Council on Disability. The programme outlined 122 concrete disability policy actions for the next few years. What concerns the political rights of persons with disabilities, there were two actions listed in the programme: The accessibility of voting facilities should be improved and the needs of the disabled persons should be heeded when developing means of electronic voting. As mentioned before, the first of these actions has already been put into practise and the second is still in process.

The Ministry of Social Affairs and Health is responsible for the follow-up of the VAMPO programme. Information on the implementation of the programme is gathered by the National Institute for Health and Welfare. Cross-administrative coordination of the programme is done by the National Council on Disability.

The National Council on Disability is a co-operative organ for authorities, disability organisations and organisations for relatives of disabled people. It follows closely the decision-making in the society, gives statements and promotes implementation of human rights of disabled people. On the Council's website there is a list (in Finnish) of disability policy programmes of some (not nearly all) municipalities, political parties, organisations, the Evangelical-Lutheran church, etc. Especially the political parties have been interested to

⁴ http://www.vane.to/images/stories/vampo2012/vampo2012_english.pdf

spread their opinions to potential new voters. Campaign materials and electoral materials accessible to disabled persons have been available to some extent.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Election Act (714/1989) <http://www.finlex.fi/fi/laki/kaannokset/1998/en19980714.pdf> regulates the facilitation and assistance of the voting for people with disability.

Section 46 contains provisions on Right to vote in advance. An enfranchised person who is in hospital, in a facility with round-the-clock treatment care or in any other operational unit of social services designated by the municipal executive board as an advance polling station, or in prison, may vote in advance in the said institution.

Enfranchised persons whose ability to move or function is limited to the degree that they are unable to come to the polling or advance polling station without undue hardship, may, pursuant to the provisions in section 55, vote in advance at home in the Finnish municipality which has been registered as their municipality of residence in the voting register.

Section 48 deals with Advance voting times. Advance voting is conducted in the period of time allowed for voting:

3) in an institution with a minimum of one day and a maximum of two days during the times specified by the election commission;

5) in at-home voting at a specified time between 9 a.m. and 8 p.m. which the voter has been informed about.

Section 54 contains provisions on Person present for at-home voting. The election official in at-home voting shall see to it that besides him or herself, a voter-appointed or voter-approved person over 18 years is present at the at-home voting and this person is not acting as an election official. A person standing as a candidate in the elections in question may not act in this role.

Section 55 regulates Preparatory measures for at-home voting. Persons entitled to at-home voting shall in writing or by telephone notify the central election committee of their municipality of residence about their willingness to vote in advance at home at the latest before 16 p.m. on the 12th day prior to the polling day. The notice may be prepared on the voter's behalf by a person appointed by the voter. The written notice, which shall be signed, maybe made using the form designed for this purpose. Section 55 also contains provisions on what shall be included in the notice.

Section 73 deals with Assistant. All polling stations must have a properly indicated election assistant, wearing distinctive marks or signs, nominated by the election committee who, at the request of a voter, will assist him or her in marking the ballot paper. A voter who wishes to use a member of the election committee as an assistant in marking the ballot paper has a right to do so if this does not delay the voting process. A person whose ability to make a mark in the ballot is essentially weakened may use the help of an assistant he or she has chosen in marking the ballot. A person who is a candidate in the election in question cannot act as an election assistant or an assistant chosen by a voter. The assistant is obliged to dutifully carry out the voter's orders and to maintain the confidentiality of the information he or she has gained in connection with the voting.

Section 190 deals with Transportation services for disabled persons. With regard to the transportation of disabled enfranchised persons to the polling and advance polling stations what has been laid down in respect to transportation services in the law governing the organisation of services and supporting functions for the disabled is in force.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

In Finland we don't have any provisions about mandatory quotas/percentage of candidates on the party lists for people with disability.

12. FRANCE

1. Votre pays dispose-t-il d'une législation particulière concernant les droits politiques et la participation des personnes handicapées ? Pourriez-vous préciser ce que couvre cette législation et

quelles garanties sont données ? Si vous avez déjà envoyé une réponse à la requête 2956, nous vous serions reconnaissants de bien vouloir indiquer s'il y a eu des changements législatifs depuis 2015 ?

Le handicap est défini à l'article L114 du Code de l'action sociale et des familles, qui a été introduit par la loi du 11 février 2005 « pour l'égalité des droits et des chances, la participation et la citoyenneté des personnes handicapées » (dite « loi handicap »). Cet article est ainsi rédigé : « *Constitue un handicap, au sens de la présente loi, toute limitation d'activité ou restriction de participation à la vie en société subie dans son environnement par une personne en raison d'une altération substantielle, durable ou définitive d'une ou plusieurs fonctions physiques, sensorielles, mentales, cognitives ou psychiques, d'un polyhandicap ou d'un trouble de santé invalidant* ». La participation à la vie politique d'une personne affectée d'un handicap est régie par le droit commun contenu dans le code civil et le code électoral. Il existe cependant quelques dispositions dans le code électoral pour faciliter le vote de la personne ayant un handicap (se reporter au point 5 de cette note). Il n'y a pas eu de modification de l'encadrement juridique depuis l'envoi de notre réponse 2956.

2. Le droit de voter et celui d'être élu sont-ils liés à la capacité juridique ? Si tel est le cas, de quelle manière ? Lorsqu'une personne est privée de son droit de voter et d'être élue, cette décision est-elle réévaluée régulièrement ?

L'exercice du droit de vote est lié à la capacité juridique. Il doit être assuré par une personne autonome psychiquement, à même de librement former et manifester sa volonté. Le code électoral précise ainsi en son article L2 que : « *Sont électeurs les Françaises et Français âgés de dix-huit ans accomplis, jouissant de leurs droits civils et politiques et n'étant dans aucun cas d'incapacité prévu par la loi* ».

Le même code indique en son article L5 que : « *Lorsqu'il ouvre ou renouvelle une mesure de tutelle, le juge statue sur le maintien ou la suppression du droit de vote de la personne protégée* ». Concrètement, certaines affections mentales (comme la trisomie) peuvent être, en fonction de leur degré de gravité, considérées par le juge judiciaire s'appuyant sur un avis médical, comme n'empêchant pas l'exercice du droit de vote.

L'article 425 du code civil décrit les conditions de cette protection juridique du majeur : « *Toute personne dans l'impossibilité de pourvoir seule à ses intérêts en raison d'une altération, médicalement constatée, soit de ses facultés mentales, soit de ses facultés corporelles de nature à empêcher l'expression de sa volonté peut bénéficier d'une mesure de protection juridique prévue au présent chapitre* ». L'article 400 de code distingue deux degrés de protection :

- la « curatelle », qui est une protection ponctuelle pour « *la personne qui, sans être hors d'état d'agir elle-même, a besoin, pour l'une des causes prévues à l'article 425, d'être assistée ou contrôlée d'une manière continue dans les actes importants de la vie civile* ».

- la « tutelle », qui est une protection permanente pour « *la personne qui, pour l'une des causes prévues à l'article 425, doit être représentée d'une manière continue dans les actes de la vie civile* ».

Le juge des tutelles (qui est un magistrat spécialisé de l'un des 173 tribunaux de grande instance), en application de l'article 441 du même code « *fixe la durée de la mesure sans que celle-ci puisse excéder cinq ans* » et « *peut, à tout moment, mettre fin à la mesure, la modifier ou lui substituer une autre mesure prévue au présent titre, après avoir recueilli l'avis de la personne chargée de la mesure de protection* ».

3. Combien de membres du parlement ont déclaré une forme quelconque de handicap ?

Le règlement de l'Assemblée nationale n'impose pas au député avec un handicap d'obligation de déclaration. Il n'est en aucun cas assimilé au travailleur handicapé qui doit signaler sa situation auprès de son employeur afin de bénéficier éventuellement d'un aménagement de poste. La situation d'un député ayant, par exemple, des difficultés pour se mouvoir est traitée de manière pragmatique afin de lui permettre d'exercer pleinement son mandat.

4. Combien de postes ministériels sont occupés par des personnes handicapées ?

Il n'y a pas d'éléments statistiques pour cette question.

5. Quelles mesures concrètes sont prises pour garantir la participation des personnes handicapées à la vie politique et publique, y compris au sein des partis politiques, des organisations non-gouvernementales et des associations ? Les matériels de campagne et/ou électoraux sont-ils systématiquement accessibles aux personnes handicapées (versions faciles à lire, braille, sous-titres, etc.) ?

1 – La participation des handicapés à la vie politique et publique

Il n'existe pas actuellement d'obligation légale pour mieux faire participer les handicapés à la vie politique et publique (concrètement une forme de « discrimination positive » comme il existe, par exemple, pour faire respecter le second alinéa de l'article 1 de la constitution qui est ainsi rédigé : « *La loi favorise l'égal accès des femmes et des hommes aux mandats électoraux et fonctions électives, ainsi qu'aux responsabilités professionnelles et sociales* »).

On notera que la « discrimination positive » existe pourtant en France pour les handicapés dans le monde du travail. La loi fixe, ainsi, à tout établissement privé ou public d'au moins 20 salariés une obligation d'emploi de personnes handicapées (6 % de l'effectif total).

On relèvera la volonté du Législateur de mieux associer les associations d'handicapés aux décisions qui le concernent. La loi handicap de 2005 précitée prévoit par exemple:

- une participation des associations d'handicapés : « *Dans toutes les instances nationales ou territoriales qui émettent un avis ou adoptent des décisions concernant la politique en faveur des personnes handicapées, les représentants des personnes handicapées sont nommés sur proposition de leurs associations représentatives* » (article L146-1-A du code de l'action social et des familles)
- l'organisation de conférences nationales du handicap : « *Le Gouvernement organise tous les trois ans, à compter du 1er janvier 2006, une conférence nationale du handicap à laquelle il convie notamment les associations représentatives des personnes handicapées, les représentants des organismes gestionnaires des établissements ou services sociaux et médico-sociaux accueillant des personnes handicapées, les représentants des départements et des organismes de sécurité sociale, les organisations syndicales et patronales représentatives et les organismes qualifiés, afin de débattre des orientations et des moyens de la politique concernant les personnes handicapées. A l'issue des travaux de la conférence nationale du handicap, le Gouvernement dépose sur le bureau des assemblées parlementaires, après avoir recueilli l'avis du Conseil national consultatif des personnes handicapées, un rapport sur la mise en œuvre de la politique nationale en faveur des personnes handicapées, portant notamment sur les actions de prévention des déficiences, de mise en accessibilité, d'insertion, de maintien et de promotion dans l'emploi, sur le respect du principe de non-discrimination et sur l'évolution de leurs conditions de vie. Ce rapport peut donner lieu à un débat à l'Assemblée nationale et au Sénat.* » (Article L114-2-1 du code de l'action social et des familles)

2 – La participation concrète des handicapés aux opérations électorales

Le code électoral contient de nombreuses dispositions pour faciliter l'exercice du vote :

- dans le cadre d'un vote au bureau de vote

- l'accès au bureau de vote. L'article L62-2 du code précité indique que: « *Les bureaux et les techniques de vote doivent être accessibles aux personnes handicapées, quel que soit le type de ce handicap, notamment physique, sensoriel, mental ou psychique, dans des conditions fixées par décret* ». Ce décret est repris par l'article D56-1 du code précité qui indique que: « *Les personnes handicapées, notamment celles qui se déplacent en fauteuil roulant, doivent pouvoir, dans des conditions normales de fonctionnement, y pénétrer, y circuler et en sortir, le cas échéant au moyen d'aménagements provisoires ou permanents* ».

- l'accès à l'isoloir et la mise sous enveloppe du bulletin. L'article L64 du code précité indique que : « *Tout électeur atteint d'infirmité certaine et le mettant dans l'impossibilité d'introduire son bulletin dans l'enveloppe et de glisser celle-ci dans l'urne ou de faire fonctionner la machine à voter est autorisé à se faire assister par un électeur de son choix* ».

- l'accès à l'urne. La personne peut se faire assister en application de l'article L64 précité (concrètement, en pratique, le président du bureau de vote peut abaisser l'urne pour permettre à une personne en fauteuil roulant de glisser elle-même son bulletin). Des « machines à voter » peuvent également être installées par les communes de plus de 3 500 habitants qui le souhaitent pour « *permettre aux électeurs handicapés de voter de façon autonome, quel que soit leur handicap* » (article L 57-1)

- dans le cadre d'un vote par délégation

L'article L71 du code précité indique que : « *Peuvent exercer, sur leur demande, leur droit de vote par procuration ... les électeurs attestant sur l'honneur qu'en raison ...d'un handicap...il leur est impossible d'être présents dans leur commune d'inscription le jour du scrutin ou de participer à celui-ci en dépit de leur présence dans la commune* ».

On notera enfin que pour la « propagande électorale » (concrètement chaque électeur reçoit quelques jours avant le jour du vote une enveloppe contenant les « professions de foi » des candidats ainsi que leurs bulletins de vote) le code électoral ne contient pas de dispositions pour rendre les documents papiers accessibles à certains handicapés (aveugles ou mal voyants). On considère que les autres moyens d'information (campagne électorale télévisée et radiodiffusée) permettent d'assurer l'information nécessaire (les « spots » des partis politiques sont d'ailleurs doublés en langues des signes ou sont sous-titrés).

Réponses à la demande CERDP 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

La loi n° 2005-102 du 11 février 2005, dite loi handicap, a octroyé le droit de vote aux personnes handicapées. Ainsi, l'article 5 du code électoral, introduit par l'article 71 de la loi précitée, indique que les majeurs placés sous tutelle ne peuvent être inscrits sur les listes électorales à moins d'une décision du juge des tutelles les autorisant à voter.

De manière générale et concrète, l'administration cherche à faciliter le vote des personnes handicapées en agissant sur le choix du matériel et des bureaux de vote, la possibilité d'un accompagnement, l'envoi de la propagande à domicile et le vote par procuration. Ainsi, l'article 62-2 du même code indique que « les bureaux et les techniques de vote doivent être accessibles aux personnes handicapées, quel que soit le type de ce handicap, notamment physique, sensoriel, mental ou psychique, dans des conditions fixées par décret. » L'article 57-1 du code électoral indique également que « des machines à voter peuvent être utilisées dans les bureaux de vote des communes de plus de 3 500 habitants figurant sur une liste arrêtée dans chaque département par le représentant de l'Etat afin de permettre aux électeurs handicapés de voter de façon autonome, quel que soit leur handicap ».

Le décret n°2006-1287 du 20 octobre 2006 relatif à l'exercice du droit de vote par les personnes handicapées, précise les conditions matérielles de vote au moyen de quatre articles :

- Article D56-1 : « Les locaux où sont implantés les bureaux de vote doivent être accessibles, le jour du scrutin, aux personnes handicapées, quel que soit leur handicap. Les personnes handicapées, notamment celles qui se déplacent en fauteuil roulant, doivent pouvoir, dans des conditions normales de fonctionnement, y pénétrer, y circuler et en sortir, le cas échéant au moyen d'aménagements provisoires ou permanents. »
- Article D56-2 : « Les bureaux de vote doivent être équipés d'au moins un isolement permettant l'accès des personnes en fauteuils roulants. »
- Article D56-3 : « Les urnes doivent être accessibles aux personnes en fauteuils roulants. »
- Article D61-1 : « Les techniques de vote doivent être accessibles aux personnes handicapées, quel que soit le type de ce handicap. Le président du bureau de vote prend toute mesure utile afin de faciliter le vote autonome des personnes handicapées. »

L'article 64 du code électoral permet à « tout électeur atteint d'infirmité certaine et le mettant dans l'impossibilité d'introduire son bulletin dans l'enveloppe et de glisser celle-ci dans l'urne ou de faire fonctionner la machine à voter est autorisé à se faire accompagner » par un électeur de leur choix, qui n'est pas obligatoirement du même bureau de vote, ni de la même commune, et qui peut lui aussi rentrer dans l'isolement, voire introduire l'enveloppe dans l'urne à la place de l'électeur qu'il accompagne. De même, si la personne handicapée ne peut signer elle-même la liste d'émargement, l'électeur qui l'accompagne peut signer à sa place avec la mention manuscrite : « L'électeur ne peut signer lui-même ».

En outre, conformément à l'article 71 du code électoral, si la personne handicapée n'est pas en mesure de se déplacer, elle a la possibilité d'user du vote par procuration en confiant un mandat à un autre électeur inscrit dans la même commune qu'elle. Le vote par procuration est normalement établi pour un scrutin déterminé (pour l'un des deux tours ou pour les deux tours). Toutefois, à la demande du mandant, la procuration peut être fixée à une année à compter de sa date d'établissement si l'intéressé établit être de façon durable dans l'incapacité de se rendre au bureau de vote. La présence de la personne qui souhaite faire établir une procuration est indispensable mais les personnes handicapées pouvant être dans l'impossibilité de se déplacer, les officiers de police judiciaire ou leurs délégués se rendent alors au domicile de ces personnes. La demande doit être formulée par écrit et accompagnée d'un certificat médical ou d'une attestation justifiant que l'électeur est dans l'impossibilité de se déplacer.

2. Does the law on elections in your country provide that quotas/percentage of candidates on the party lists for people with disability are mandatory? If yes, what is the quota/percentage?

Non. L'article Article 200 du code électoral indique que « ne peuvent être élus les majeurs placés sous tutelle ou sous curatelle », les personnes handicapées étant souvent placées sous tutelle.

13. "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" / "L'EX-RÉPUBLIQUE YOUGOSLAVE DE MACÉDOINE"

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Please see the model reply that our parliament sent out for the Request 2956. There have not been legislative changes that affect the political rights and participation of persons with disabilities since 2015.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to the Constitution of the Republic of Macedonia, people that are deprived of their legal capacity do not have the right to vote. The Law on Elections states that every citizen of the Republic of Macedonia who is at least 18 years of age, has an active legal capacity and a permanent residence in the electoral district (the municipality or the city of Skopje in the case of local elections) where the election takes place, has the right to vote. In addition, the right to be elected is also linked to the legal capacity, except in the case of the election of the President of the Republic (the Constitution does not state legal capacity as one of the conditions for candidates). The Law on Elections states that every citizen of the Republic of Macedonia who is at least 18 years of age and has an active legal capacity, has the right to be elected as a Member of Parliament, as a Member of the Municipality Council or as a Mayor.

The legal capacity of a person can be partially or completely revoked in case a person is not able to take care of himself/herself and the protection of his/her rights and interests because of a mental illness, dementia, or use of alcohol, narcotics, psychotropic substances and precursors. The competency for revoking the legal capacity of a citizen of the Republic of Macedonia is given to the court in whose area the citizen lives or resides. The procedure for complete or partial deprivation of the legal capacity of a citizen is initiated by the court *ex officio* or upon a motion submitted by the spouse, child, grandchild, parent, grandparent, sibling or any other person living in a permanent community with that citizen, or upon a proposal of the competent center for social work. The court will interrogate the person against whom a procedure for revoking the legal capacity is initiated in order to gather all the facts essential for making a decision, as well as listen to all the people which have any information about the life and behaviour of the person that are considered essential for making a decision. The court is obliged to appoint at least two doctors to examine the person against whom a procedure for revoking the legal capacity is initiated, one of which has to be a specialist in nervous and mental disorders. The examination is conducted in the presence of the judge, except in those cases when the examination is performed in a stationary medical institution. After conducting the procedure, the court makes the decision whether or not to revoke, completely or partially, the legal capacity of the person. People that are deprived of their legal capacity have the same status as a minor who has reached 15 years of age. When the causes for the revoking of the legal capacity are sorted out, the court decides of the partial or complete restoration of the legal capacity of the person. The amendment of the decision for revoking the legal capacity is done by the court *ex officio* or upon a request of the person or body that submitted the motion for the deprivation, or the person which has his/her legal capacity revoked.

According to the Law on Elections, citizens that are deprived of their legal capacity with a court decision are not registered in the Voters List. The Basic Courts submit to the State Electoral Commission the data on people who have been deprived of their legal capacity with a court decision.

3. How many members of parliament have declared some form of disability?

Since the independence of the country in 1991, none of the members of parliament have declared some form of disability.

4. How many persons with disabilities hold ministerial positions?

Since the independence of the country in 1991, none of the ministers have declared some form of disability.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The organisations for disabled people have had the lead role in the promotion of the political life of people with disabilities since 2001. Hence, the first actions toward promotion of the political participation of people with disabilities were taken in 2001. People with disabilities were encouraged through consultation and counselling to join the electoral process and fulfil their right to vote. In 2006, a person with disability took active participation in a political party and was a candidate for parliament. Even though he did not succeed to be elected, his candidacy can be presented as an excellent example that people with disability can run for office and enjoy their voting rights.

For the election in 2008 and 2009, Polio Plus⁵ conducted the project "Vote for Honor", designed to improve the understanding and participation of people with disabilities in the electoral process (passive and active voting rights as basic human rights) and to facilitate the creation of favourable conditions for people with disabilities to exercise their voting rights as equal citizens. The activities were focused on three components: awareness raising component, educational component and legislative component. As part of the awareness raising activities several outputs were created (brochures, inserters, the columns Vulkan Plus, etc.). The

⁵ Polio Plus is a civic organization of people with and without disability, which works on the essential connecting and a complete exercise of the fundamental human rights and freedom of people with disability.

educational activities (meetings) were directed towards people with disabilities in order for them to be aware of their voting right, guaranteed by national and international laws, to participate in the elections either as a voter or a candidate, to submit requests to the State Electoral Commission for monitoring at the next elections, etc. The legislative activities consisted of lobbying activities and legal activities. The first activities targeted the stakeholders in order to create accessible polling places, while the second were directed towards the enhancement of the cooperation between the State Electoral Commission and the Ministry of Justice in order to improve the existing electoral framework. In addition, three debates were organized between three presidential candidates, as well as one debate between candidates for mayors in local municipality (local elections were carried out at the same time as the presidential elections). During the local elections in March 2014, Polio Plus held meetings with candidates for mayors, in order to influence them to put the disability issue on their political agendas. As a result, nine candidates explicitly included the disability issue in their campaign programs as a human rights issue, while others, who had already included the disability issue, but from a medical stand point, took the human rights issue approach as well. Additionally, five debates were organized between candidates for mayor and the so-called vulnerable groups, people with disabilities and their families. Since February 2013, consultations and counselling activities were held with many people with disabilities in order to explain to them the electoral process: how to vote, where to go to vote, how to check if they are in the electoral list, etc. Furthermore, flyers were made and distributed to the organizations for disabled people, other civil society organizations and people with disabilities, and also a simulation was organized on how to vote and how people with disabilities could fulfil their voting right.

People with disabilities may participate in political life under equal terms as every other citizen. They may also establish or become members of political parties and other non-governmental organisations, be candidates at elections and be elected for any public office. However, the reality is different. According to one source, discrimination on the basis of disability is very high. 29.9% of individuals that were interviewed before the 2008 elections stated that they would not vote for an MP or other public office candidate with disability⁶.

There are many points of concern relating to the accessibility of the electoral process and the political participation, due to the lack of a systematic approach regarding the disability issue. According to the research "Let's ask ourselves together?" from 2005, the question whether people with disabilities are included in the political life was answered as follows: 53% of the respondents believed that people with disabilities "are nowhere to be found", 27% see them only before elections, 17% stated that they have seen only a few, and 2% indicated that the number of people with disabilities in politics was sufficient. In 2003, following the European Parliament example, people with disabilities, upon an initiative of Polio Plus, established a lobby group in the Macedonian Parliament, consisting of MPs from different political parties, formed as an Inter-party parliamentary lobby group for the rights of people with disabilities (IPPLG)⁷. This group has been renewed after every new electoral cycle, and the number of members has been continuously increasing.

In order to remind the public and to further extend the education of people with disability on their voting rights and the means of participation in the whole electoral process – both as voters and as candidates – in 2014 a debate was held by Polio Plus in the capital city of Skopje under the motto: "MY VOTE COUNTS TOO". This event was intended as an opportunity to influence the candidates both for mayors and for municipality council's members in the Republic of Macedonia, as well as set up the priorities, measures and actions that any future mayor would have to have on his agenda. The UN Convention on the Rights of Persons with Disabilities was also discussed, putting the emphasis on Article 29 concerning voting rights, as well as the Optional protocol as a protective mechanism. The Electoral Code of the Republic of Macedonia was also discussed, especially the articles concerning people with disabilities and the voting at home of sick or unwell citizens. In addition, a representative from the Macedonian Commission for Protection against Discrimination explained how to write a complaint to the Commission in cases of discrimination against any citizen with a disability⁸. At the same time Polio Plus has been influencing the political parties for the inclusion and mainstreaming of the disability issue in their party programs.

Model reply to ECPRD request 2956

According to the Law on elections in the Republic of Macedonia, people who are unable to vote by themselves, have the right to bring with them a person who will assist them during the voting process. If a person who is unable to vote by himself/herself does not bring anyone with them, then the voting board will determine a person to assist the voter who is unable to vote by himself/herself from the other voters who are present at the

⁶ "How Inclusive Is the Macedonian Society- <http://soros.org.mk/dokumenti/FIOOM-Istrazuvanje-Inkluzivnosta-na-MK-opstestvo-ANG.pdf> (accessed on 31.05.2016)

⁷ www.ippg.org.mk (accessed on 31.05.2016)

⁸ <http://www.polioplus.org.mk/vesti/vest1-en.html> (accessed on 31.05.2016)

place of vote. If a voter has a disability that prevents his/her access to the place of vote, the voting board has the obligation to provide him/her suitable access to the place of vote.

In the Republic of Macedonia there are no provisions that require mandatory quotas/percentage of candidates on the party lists for people with disability.

14. GERMANY / ALLEMAGNE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956, we would be grateful if you could indicate whether there have been legislative changes since 2015.

The German Bundestag replied to ECPRD request 2956. The legislative provisions mentioned and explained in the reply have not been changed since.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? If a person has been deprived of his/her right to vote and be elected, is this decision reassessed on a regular basis?

All Germans who have reached the age of 18 years and meet the further requirements in Section 12, subsection (1), of the Federal Elections Act (BWahlG) are entitled to take part in elections to the German Bundestag (active suffrage). With regard to the legal capacity referred to in the question, the provisions of Section 12, subsection (1) 3, combined with Section 13 (2) of the act apply. Accordingly, persons are deprived of the right to vote if a custodian has been appointed for them by a custodianship court because, by reason of a mental illness or a physical, mental or psychological handicap, they cannot in whole or part take care of their affairs (Section 1896, subsection (1), first sentence, of the Civil Code (BGB)). This does not apply if the custodian was only appointed by interim order (summary proceedings) (Section 13(2) of the Federal Elections Act).

The question of when custodianship ends and thus the right to vote is restored is governed by the principles of the Civil Code. If the requirements for custodianship no longer apply, for instance because the individuals are able to take care of their affairs themselves again, the custodianship must be terminated by court order (Section 1908d, subsection (1), first sentence, of the Civil Code). Once the custodianship has been terminated, individuals are again entitled to vote, provided that they meet the other requirements of Section 12, subsection (1), of the Federal Elections Act and that there are no other reasons for disqualifying them from voting (Section 13 of the Federal Elections Act).

3. How many members of parliament have declared some form of disability?

The statistics requested here are not collected and therefore cannot be communicated.

4. How many persons with disabilities hold ministerial positions?

The statistics requested here are not collected and therefore cannot be communicated.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

In 2002, the German Bundestag passed the Equal Opportunities for Persons with Disabilities Act (BGG). The purpose of the act is to eliminate discrimination against persons with disabilities, ensure their equal participation in life in society and enable them to lead their own lives (Section 1, first sentence). The act lays down a range of requirements on how persons with disabilities are to be granted equal opportunities and accessibility is to be ensured. The equal treatment obligations under the act are directed at federal agencies and authorities in particular. This includes ensuring barrier-free buildings and transport (Section 8), the right to use sign language and other communication aids (Section 9), special formats for official notifications and forms (Section 10) and the introduction of barrier-free information technology (Section 11). Provision is also made for the conclusion of agreements on targets between recognised disability rights associations and firms or federations of firms from the various economic sectors on ensuring accessibility in their areas (Section 5). The Federal Ministry of Labour and Social Affairs keeps a list of target agreements in which the conclusion, amendment and termination of such agreements are recorded (Section 5, subsection (5), first sentence). A whole series of such agreements have already been concluded and corresponding measures taken to ensure accessibility.

The Federal Ministry of Labour and Social Affairs' list of agreements can be consulted (in German) at: <http://www.bmas.de/DE/Themen/Teilhabe-Inklusion/Zielvereinbarungen/Zielvereinbarungsregister/zielvereinbarungsregister.html>.

Replies of the Bundesrat to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Yes. Although each federal state (Land) has its own provision on the facilitation and assistance of people, the content of these provisions is essentially identical. According to the Electoral Law of the Laender, each voter who is not able to read or who is physically handicapped and disabled to mark the ballot paper or to cast it in the ballot box, may be assisted by another person. Blind or partially sighted voters may use tactile voting devices. Thus, the government wants to ensure that voters with disabilities make use of their right to vote.

An example for Electoral Law (unfortunately only in German) can be found in the state of North Rhine Westphalia:(the most relevant regulation being §§ 26 Paragraph 3)

http://www.voris.niedersachsen.de/jportal/portal/page/bsvorisprod.psml/action/portlets.jw.MainAction?p1=w&eventSubmit_doNavigate=searchInSubtreeTOC&showdoccase=1&doc.hl=0&doc.id=jlr-WahlGNDV4P26&doc.part=S&toc.poskey=

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

Replies of the Bundestag to request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

The details for holding an election are laid out in the Federal Elections Act (BWahlG) and the Federal Electoral Regulations (BWO). Under the BWahlG, individuals can vote in the election either by casting a vote in a polling district (section 14 (3 a) BWahlG) or by postal ballot (section 14 (3 b) BWahlG).

Voting by casting a vote in a polling district takes place at a polling station. The polling stations are to be selected and equipped in accordance with the local conditions so as to make it as easy as possible for the entire electorate, and in particular for disabled persons and persons with restricted mobility, to participate in the election (section 46 (1) sentence 3 BWO). The local authorities of the municipalities shall announce in good time and in appropriate form which of the polling stations are barrier-free (section 46 (1) sentence 4 BWO). To facilitate voting, there is also the option of creating mobile electoral boards at smaller hospitals, smaller senior citizens' or nursing homes, monasteries, convents and socio-therapeutic and penal institutions, where votes can be cast on site (section 62 ff., section 8 BWO).

Character font, size and contrast of the ballot papers are to be chosen so as to facilitate legibility (section 45 (5) sentence 1 BWO). Furthermore, section 33 (2) of the BWahlG states that a voter who is illiterate or who due to a physical handicap is prevented from marking the ballot paper, folding it, or from placing it into the ballot box himself or herself may be aided by another person. Further details of this electoral support can be found in the Federal Electoral Regulations under "Section 57: Voting by disabled persons": The helper may also be a member of the Electoral Board designated by the voter (section 57 (1) sentence 2 BWO), must limit assistance to the fulfilment of the voter's wishes (section 57 (2) sentence 1 BWO) and may go to the polling booth together with the voter if the nature of the assistance to be rendered so demands (section 57 (2) sentence 2 BWO).

Blind or visually impaired voters may also use a ballot paper template for marking the ballot paper under section 57 (4) BWO. These templates are produced by associations of the blind (section 45 (5) sentence 2 BWO), with the Federal Government covering the costs arising from the production and distribution of the ballot paper templates (section 50 (4) BWahlG). Individuals who, due to their disability, are unable to go to the polling station in person on election day can also participate in the election via postal ballot (section 14 (3 b), section 36 BWahlG). In hospitals, nursing and residential homes for the elderly, nursing homes, convalescent homes and socio-therapeutic and penal institutions, as well as collective accommodation, the management of the establishment shall designate a suitable room, have it furnished and equipped and advise the persons eligible to vote of the times at which the room is available for exercise of the postal vote (section 66 (4) sentence 2 BWO). The support measures for voting by casting a vote in a polling district (section 33 (2) BWahlG, section 57 BWO) also apply accordingly to voting via postal ballot (cf. section 36 (1) sentence 1 BWahlG, section 66 (3) sentence 2 BWO).

2. Does the law on elections in your country provide that there are mandatory quotas/ percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No. Legal measures giving privileged status in the form of a quota for people with disabilities are not provided for in the Federal Elections Act or the Federal Electoral Regulations.

3. Could you send a copy of the law on elections in your country (preferably in English)?

The full texts of the Federal Elections Act (BWahlG) and the Federal Electoral Regulations (BWO) are available in English on the Federal Returning Officer's website (www.bundeswahlleiter.de):

Federal Elections Act (BWahlG):

http://www.bundeswahlleiter.de/en/bundestagswahlen/downloads/rechtsgrundlagen/bundeswahlgesetz_engl.pdf

Federal Electoral Regulations (BWO):

http://www.bundeswahlleiter.de/en/bundestagswahlen/downloads/rechtsgrundlagen/bundeswahlordnung_engl.pdf

15. GEORGIA / GEORGIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The Election Code of Georgia contains some provisions that ensure exercising of voting rights by the disabled people to some extent. For instance, the Article 33 which covers the issues related to the so-called "portable ballot box" stipulates that: "1. the list of the portable electoral box is drafted on the bases of the joint special lists, if:

a) Due to state of health of being handicapped, the electors cannot independently visit the premises for voting;
c) The elector is in a hospital for treatment or in other medical institution and the polling station cannot be opened in it."

The Article 58 (Arrangement of the Premises for Voting) stipulates in the second paragraph, that a polling station should be accessible for all voters or adapted to the needs of voters (although this paragraph enters into force after the date of the 2016 parliamentary elections has been announced).

The Article 63 ensures that the voters with impaired vision are able to complete voting process independently. In addition, there are some articles in the Election Code which ensure sign interpretation of certain texts in media coverage of election and pre-election campaigns.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Constitution of Georgia clearly states in the Article 28 (pa 2), that, "A citizen, who is recognised as legally incapable by a court [...], shall have no right to participate in elections and referenda.

This constitutional norm links with a relevant electoral norm, namely, the Article 185 (11) of the Election Code of Georgia which states that, "those persons who are pronounced legally incapable by a court and who are placed in a medical institution before 1 April, 2015 shall have no right to participate in the elections, referenda or plebiscite".

3.4. How many members of parliament have declared some form of disability? How many persons with disabilities hold ministerial positions?

There are no official records.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Georgia has ratified the UN Convention on the Rights of the Persons with Disabilities (UNCRPD), which is a key international instrument for protecting the rights of persons with disabilities. With ratification of the Convention Georgia undertook an obligation to implement this document and revise national standards of protection of the rights of persons with disabilities. The government of Georgia runs several projects together with electoral administration to improve normative base for implementation of the electoral rights of these people. Apart from those Articles described above in the 1st question, they try to adapt the electoral environment and electoral processes in a way which will enable the persons with disabilities to independently express their will and make an informed choice and have a possibility to be elected for various positions.

16. GREECE / GRECE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Since e-voting or postal voting systems have not been adopted in Greece for national elections, participation of persons with disabilities in the elections (access to polling stations) is facilitated through the application of the provisions mentioned in our reply to request 2956, which is still valid as it was submitted.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

All Greek citizens (aged over 18) are entitled to vote, as long as they are registered in an electoral roll of some municipality or community in Greece and they have not been deprived of their voting rights. Still, there is a link between legal capacity and the right to vote, as persons, who pursuant to the provisions of the Hellenic Civil Code have been fully deprived of their right to exercise their civil rights on their own, are not entitled to vote. Those placed in full custodian guardianship may, by a later court decision that would remove the guardianship in full or in its part that concerns civil rights, regain their right to vote.

3. How many members of parliament have declared some form of disability?

The submission of such type of declarations to Parliament's services is not provided for. Still, at least one MP, in the current composition of the Parliament, has an obvious form of disability (blindness).

4. How many persons with disabilities hold ministerial positions?

As far as we are aware of, one.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Equal opportunities, decent living conditions, social inclusion and facilitation of participation for persons of disabilities has been a priority of the Hellenic State, especially in the last decade. As far as participation in the political life is concerned, it is rather common for political parties, non-governmental organizations for human and political rights, as well as other political associations to collaborate with Hellenic Confederation of the Disabled and other relevant federations for specific types of disabilities. Such collaboration is mainly realised during the drafting of political programmes or for the political support of the federations' demands. Although electoral materials are not systematically accessible to persons with disabilities, Hellenic Parliament Television broadcasts the sittings simultaneously in sign language. Furthermore, it is common practice for most of the political parties to include persons with disabilities in their lists for State MPs, the only closed lists provided for in our electoral system.

Information sent by the Secretariat of the Greek delegation to PACE

Constitutional provisions

With regards to the right to vote, according to article 51 par. 3 of the Greek Constitution: "The Members of Parliament shall be elected through direct, universal and secret ballot by the citizens who have the right to vote, as specified by law. The law cannot abridge the right to vote, except in cases where a minimum age has not been attained, in cases of legal incapacity or as a result of irrevocable criminal conviction for certain felonies". As far as the right to be elected is concerned, according to article 55 par. 1 of the Greek Constitution: "To be elected as a Member of Parliament, one must be a Greek citizen, have the legal capacity to vote and have attained the age of twenty-five years on the day of the election". Hence there is no specific legal discrimination among Persons with Disabilities and those with none. All citizens are equal before the law and can therefore have the right to elect and be elected. In general, deprivation of one's right to vote always derives from either an irrevocable criminal conviction for certain offences or from a decision of a civil court declaring full legal incapacity of a person.

Articles 59-66 of the Penal Code provide all necessary details regarding the deprivation of political rights in case of certain criminal convictions. The deprivation of political rights results in losing the right to vote and to be elected, as well as losing any elected offices the offender held, or some of the above, for a duration and to the extent specified by the court. The latter vary depending on the kind and the severity of the offense and the

penalty imposed. Civil courts rule on one's deprivation of legal capacity in a special procedure according to article 801 of the Code of Civil Procedure, when due to psychological or mental disorder, or physical disability, one cannot take care of his or her personal affairs (articles 1666 seq. of the Civil Code). The judicial decision specifies the extent of the deprivation of the legal capacity. Only full deprivation of legal capacity results in deprivation of political rights.

According to the electoral law (article 83 par. 3 of the presidential decree 26/2012), persons with disabilities can apply for assistance to the head (judicial representative) or other member of the returning board of the polling station, who are obliged to respond to the request. According to the electoral law (article 5 par. (a) of the presidential decree 26/2012) people who according to the respective provisions of the civil code are in full custodian guardianship, are being deprived of the right to vote and to stand as candidates.

Other actions/measures

Ministry of the Interior and Administrative Reconstruction requests from the competent central, regional and local authorities to make all possible efforts (technical and functional) in order to facilitate the access of these persons to the polling stations and ensure their priority to vote. In case of any difficulty in accessing the polling station, the head of the returning board may allow a person with disability to vote under his/her supervision in any other accessible place within the same building complex.

The website of the Ministry of the Interior and Administrative Reconstruction has been constructed according to the standard W3W satisfying "A" level of compliance (according to the WCAG 1.0) thus providing good accessibility to information for persons with disabilities.

With regards to members of Parliament that have declared some form of disability, there is none for the moment. However, there is representation in ministerial positions, within the national government as well as at the EU: Mr Panayotis Koyroublis, Minister of Internal Affairs and Administrative Reconstruction and Ms Kostandinka Kuneva, member of the European Parliament.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

1. Voters who, are physical unable to be withdrawn in the separate area (voting booth) where secretly should enclose the ballot paper of their choice in the provided envelope, are entitled to address the representative of the judicial authority or to a member of the electoral board, who are obliged to help them (Article 83, par 3 of the Presidential Decree 26/2012, O.J. 57A/15.03.2012).

2. No

17. HUNGARY / HONGRIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The Hungarian answer to Request No. 2956 is still valid. There has been no legislative change on this issue since then.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Yes, there are some regulations in the [Act XXXVI of 2013 on Electoral Procedure](#) that linked the right to vote to legal capacity. A person can be disenfranchised by a court ruling due to mental illness, mental disability or addiction. In addition, a person disenfranchised by a court for committing an offence shall have no suffrage.

According to Law on Electoral Procedure the following shall not have the right to vote:

1. persons who are under guardianship or conservatorship that precludes legal capacity on the basis of final court verdict,

2. persons who are subject to a final legal judgement forbidding them to participate in public affairs,

The following shall have the right to vote, but shall not have the right to stand for election:

Persons who have been jailed or committed to treatment in a mental institution on the basis of a final legal judgement rendered in criminal proceedings, but in both cases are not subject to a final legal judgement forbidding them to participate in public affairs.

3. How many members of parliament have declared some form of disability?

There are no official records on this issue.

As we know from public interviews, there are two Members with disabilities in the Hungarian National Assembly.

4. How many persons with disabilities hold ministerial positions?

No official records exist on persons with disabilities in ministerial positions. We have no information about a minister with disability.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

According to Law on Electoral Procedure voters with disabilities have right to request the following types of assistance in exercising their right to vote:

- a) the sending of a notification in Braille transcription;
- b) the sending of simplified information material;
- c) use of a Braille voting template at the polling station or during mobile voting;
- d) use of an accessible polling station.

The voter has to inject an application to the head of the local Election Office before the voting. They can send it personally, by mail or online.

Civil organisations are active participants in legislation. Hungary presents all the representative organizations' opinion in decision making and in the disability-related legislation. The Hungarian Decree-Law 1330/2013 rules the rights of National Disability Council to be involved in disability-related legislation. The Council can take amendments, suggestions for the Minister, responsible for equal rights. The Council participate in the preparation process of National Disability Programme.

[National Disability Programme \(2015-2025\)](#)

The Act CXXV of 2009 on Hungarian Sign Language specifies that it is the obligation of the state to operate a national network of sign language interpretation services, and guarantees free sign language interpretation services for people with hearing disabilities and for the deaf blind. It also makes the opportunity of bilingual primary education available (the main language of instruction being sign language) as of 2017, and makes it obligatory for television channels to provide subtitles for their programmes. The broadcasting of parliamentary session can followed in sign language.

Campaign materials and electoral materials accessible to disabled persons have been available to some extent. Among the parliamentarian parties there are low-vision version of their webpage the Fidesz Hungarian Civil Alliance and the Christian Democratic People's Party.

Among the NGOs we have seen a quiet mixed picture. The supportive organizations for disabled persons mostly use low-vision webpage. Among the other civil organization low-vision webpage is less common. Leaflets, campaign materials and brochures rarely have versions for disabled persons.

Information sent by the Secretariat of the Hungarian delegation to PACE

1. The Fundamental Law of Hungary recognises the fundamental rights of man, regardless of citizenship or any other aspects. Article I of the Fundamental Law stipulates that the inviolable and inalienable fundamental rights of man shall be respected, and it shall be the primary obligation of the State to protect these rights. Hungary shall recognise the fundamental individual and collective rights of man. This is confirmed by Article II, which lays down that human dignity shall be inviolable; every human being shall have the right to life and human dignity.

Through the provisions of the Fundamental Law, which is the primary source of law, Hungary also guarantees the fundamental political rights to vote and to stand as a candidate in elections for all citizens, without discrimination, in a universal and equal manner.

“Every adult Hungarian citizen shall have the right to vote and to be voted for in elections of Members of the National Assembly, local governmental representatives and mayorships, and for Members of the European Parliament.

Every adult citizen of another Member State of the European Union with residence in Hungary shall have the right to vote and to be voted for in elections of local government representatives and mayorships, and for Members of the European Parliament.”

Article XV of the Fundamental Law stipulates that all are equal in the eye of the law and that every human being shall have legal capacity.

The special rights of persons with disabilities are also set out in the Fundamental Law. According to Article XV(2), Hungary shall guarantee the fundamental rights to everyone, without discrimination, and in particular without discrimination on grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status.

Furthermore, paragraph (4) prescribes that, by means of separate measures, Hungary shall protect families, children, women, the elderly and persons with disabilities, while Article XIX, aimed at ensuring social security, stipulates that Hungary shall strive to provide social security to all of its citizens. Every Hungarian citizen shall be entitled to assistance in the case of maternity, illness, disability, handicap, widowhood, orphanage and unemployment for reasons outside of his or her control, as provided for by an Act.

In addition to the Fundamental Law, Act XXVI of 1998 on the Provision of the Rights of Persons Living with Disability and Their Equality of Opportunities provides guarantees with regard to the rights of persons with disabilities, which – in accordance with the Fundamental Law and the generally recognized principles of international law – was passed by the National Assembly to ease their disadvantages, to lay the foundation for their equality of opportunities and to ensure their active participation in social life.

The act stipulates that persons living with disabilities have the right to an environment that presents no obstacles and is safe, to the equal possibility of access (communication) through the development of information society, to accessible transportation and to the equal possibility of accessing public services; that they are entitled to equal rights in the field of health care, education and training, as well as employment, and that their special needs and the provision of their equality of opportunities shall be given particular attention.

Act CXXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities provides supplementary regulation by ensuring through the establishment of the Equal Treatment Authority that, in the event of eventual negative discrimination of protected social groups, such as persons with disabilities, as specifically mentioned, they shall be able to exercise their fundamental rights against state bodies, authorities or institutions.

Aside from the rights mentioned above, Act XCII of 2007 on the Promulgation of the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention, which guarantees equality of opportunities of participation in political and public life, specifically mentions the political rights of persons with disabilities.

a) State Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

- ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use,
- protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate,
- guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

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

- participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties,
- forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

In relation to the right to vote, Act CCIII of 2011 on the Election of Members of Parliament contains only the restriction that a person serving imprisonment under an absolute sentence or subject to forced medical treatment in an institute as decreed in criminal proceedings shall not be eligible to stand as candidate in any election of Members of Parliament.

Act XXXVI of 2013 on Electoral Procedure specifically stipulates that persons with disabilities shall be supported in exercising their right to vote.

Section 88 of the Act lays down that voters with disabilities may request the following types of assistance in exercising their right to vote:

- the sending of a notification in Braille transcription,
- the sending of simplified information material,

- use of a Braille voting template at the polling station or during mobile voting and
- use of an accessible polling station.

In view of the above, there are legal regulations on the political rights of persons with disabilities in Hungary, but the Fundamental Law and many other provisions beyond it are meant to ensure equality of opportunity for persons with disabilities in all aspects of life, including the enforcement of their political rights. In practicing the right to vote and to stand as a candidate in elections, they shall be granted equal rights as other Hungarian citizens. Several special regulations and institutions assist persons with disabilities in participating in public affairs. The only restriction on this may be imposed by a judge's sentence, which may deny certain people the right to vote.

2. Based on the provisions described in section 1, all persons lawfully staying in Hungary shall be entitled to acquire rights and undertake obligations; persons may not be deprived of legal capacity. Only persons with the right to vote shall be entitled to vote in parliamentary elections. As set out in Article XXIII(1) of the Fundamental Law, every adult Hungarian citizen shall have the right to vote and to be voted for in elections of Members of the National Assembly, thus every Hungarian citizen above 18 years of age has the right to vote and to be voted for in elections.

Paragraph 6 of the same article stipulates that only those disenfranchised by a court for a criminal offence or limited mental capacity shall not have the right to vote. Citizens may only be disenfranchised by the final judgement of an independent and impartial court. Those committing a criminal offence shall not be entitled to practice this right until the expiry of the period set out in the judgement. Persons with limited discretionary ability are deemed partially or fully incompetent and may be placed under guardianship by a court's judgement under Act V of 2013 on the Civil Code. Persons of legal age, whom the court has placed under guardianship fully limiting their legal competency, are deemed legally incompetent. Persons of legal age whose necessary discretionary ability for conducting their affairs is – owing to their mental disorder – completely or periodically lacking shall be placed by court order under guardianship that limits their competency in certain matters of life, where this is deemed justified due to their individual circumstances and family and social ties.

The court shall terminate conservatorship concerning competency if the grounds on which it was ordered no longer prevail. The court ruling on restricting, upholding or modifying the legal competency of a person shall specify the date by which to initiate the statutory review of conservatorship, where this date:

- must be fixed within five years from the date when the ruling becomes legally operative in the case of conservatorship;
- must be fixed within ten years from the date when the ruling becomes legally operative in the case of guardianship.

3. No records are kept in Hungary on representatives with disabilities, thus the information sheets on representatives accessible on the website of the National Assembly contain no data in this regard. The plenary chamber of the Parliament is accessible for persons with reduced mobility. There are several spots in the plenary chamber, from where representatives may perform all representative activities related to plenary sessions (voting, speeches). Currently one representative uses this opportunity. The same conditions hold for committee sessions. According to paragraph 38/C of Act XXXVI of 2012 on the National Assembly of Hungary, a representative may use Hungarian sign language in giving a speech, and at his/her request the Office of the National Assembly shall provide interpretation into Hungarian sign language. During this parliamentary cycle, one representative requested a sign language interpreter.

4. There are no special databases which could help us determine the number of government officials with disabilities working in the ministries. The Ministry of Human Resources, responsible for government policy on disability, currently employs 8 disadvantaged workers.

5. Hungary's commitment to ensuring the right to vote as broadly as possible is demonstrated by the fact that during the preparations for the 2014 elections, great emphasis was placed on guaranteeing the right to vote without obstacles. Paragraph 2(1), point d) of Act XXXVI of 2013 on Electoral Procedure stipulates "support for voters with a disability in exercising their right to vote" as a basic principle, and chapter 42, titled "Assistance to voters with a disability", specifically lays down the special rules related to voters with disabilities. These provide several opportunities for people with disabilities to genuinely exercise their right to vote without any obstacles arising from their situation. In accordance with section 88 of the Act, in addition to requesting the option of a mobile ballot box, persons with visual impairment may request the sending of a notification in Braille transcription, and have the option to use a Braille voting template at the polling station or during mobile voting. In addition to the accessibility aspect, this is a major step forward to ensuring the secrecy of voting, as well as guaranteeing that voters are free from any outside influence. A further opportunity stipulated in the act is the option of requesting simplified information material, which may be of special importance in exercising

the right to vote for persons with mental disabilities, as well as for persons with hearing or speech impediment and with lower language competence. Finally, section 166 stipulates that at least one polling station in each constituency of each settlement shall provide disabled access. In accordance with section 102(3) of the Act, voters who requested an accessible polling station – if the polling station assigned to them based on their address is not accessible – shall be moved by the local election office to the register of a polling district in the same settlement and constituency that has an accessible polling station. It is regulated in the annex that the register of polling districts and constituencies shall contain information on whether the polling station is accessible. Owing to the above, voters with disabilities were able to exercise their right to vote independently and free of obstacles at the 2014 parliamentary elections.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

According to the Fundamental law of Hungary (25 April 2011) Article XV: everyone shall be equal before the law and guarantee the fundamental rights to everyone without discrimination.

According to the Act XXXVI of 2013 on Electoral Procedure one of the most important principles of the rules of electoral procedure is support for voters with a disability in exercising their right to vote.

The act on Electoral Procedure defines: “Voter with a disability” means a voter who has limited or no sensorial abilities (especially vision and hearing) or limited or no musculoskeletal abilities or mental capacity, or who has considerably limited communication abilities.

Section 88 of this law stipulates that “voters with a disability may request the following types of assistance in exercising their right to vote:

- a) the sending of a notification in Braille transcription;
- b) the sending of simplified information material;
- c) use of a Braille voting template at the polling station or during mobile voting;
- d) use of an accessible polling station.”

Very important question is the possibility of the mobile voting. According to this law “requests for mobile voting may be submitted by voters listed in the polling district electoral register who are limited as to their movement due to their health condition, disability or detention.” (Section 103) Voters who cannot read or are prevented from voting by a physical handicap or any other cause may use the assistance of a person of their choice – or, for lack of such assistants, the joint assistance of two members of the polling station commission. (Section 181)

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No, there isn't any quotas/percentage of candidates on the party lists for people with disability.

18. IRELAND / IRLANDE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Various parts of Irish legislation, set out hereunder, facilitate the participation of persons with disabilities in the electoral process in Ireland. In addition, the Department of the Environment, Community and Local Government, provides information and guidance on accessibility of voting and voter information, building on learning from National Disability Authority research and from experience and best practice.

The focus of policy has been to provide accessible information to assist persons with disabilities to apply for entry on the register of electors and to assist such persons to vote at elections and referenda. Special voting facilities are provided in hospitals, nursing homes or similar institutions for residents who cannot go to the polling station due to a physical disability or physical illness.

General provisions facilitating voters with disabilities are set out in the Electoral Act 1992 (extract at Appendix 1). These are:

- Section 11(6) facilitates the registration of persons with a mental disability at either their previous residence or previous place of registration as a voter.
- Section 14(d) facilitates postal voting for persons with a physical disability.

- Section 14A(2) facilitates a person with a physical disability to enter the supplement to the register of electors without the requirement to have the application certified by a member of the Garda Síochána (Irish police force) or officer of the registration authority.
- Section 17(2) facilitates the entry of the names of persons with a disability who are ordinarily resident in a hospital or in a home or similar institution in the special voters list, enabling them to vote at that place of residence.
- Section 28(1A) provides that local authorities must endeavour to appoint polling places where at least one polling station is accessible to wheelchair users.

Provisions specific to voting at Dáil (Irish Parliament) elections facilitating voters with disabilities are set out in the Electoral Act 1992 (extract at Appendix 1). These are:

- Section 94 provides that the returning officer will give public notice of all the polling stations in the constituency which are not accessible to wheelchair users.
- Section 100 enables a person who is unable to vote at a particular polling station to apply to the Returning Officer for an alternative polling station in the same constituency.
- Section 103 provides that electors whose sight is impaired; or who are physically incapacitated or have literacy difficulties may have a companion assist them or the assistance of the presiding officer to vote.

Similar provisions, as outlined hereunder, to facilitate voters with disabilities at Dáil elections, apply under other legislative codes dealing with Presidential, European Parliament and municipal elections and at referendums.

Under the Presidential Elections Act 1993 (extract at Appendix 1)

- Section 43 (1A)(2) enables a person who is unable to vote at a particular polling station to apply to the Returning Officer for an alternative polling station in the same constituency.

Under the Local Elections Regulations, 1995 (extract at Appendix 1)

- Section 62 enables a person who is unable to vote at a particular polling station to apply to the Returning Officer for an alternative polling station in the same constituency.

Under the European Parliament Elections Act 1997 (extract at Appendix 1)

- Section 61 enables a person who is unable to vote at a particular polling station to apply to the Returning Officer for an alternative polling station in the same constituency.

Under the Referendum Act 1994 (extract at Appendix 1)

- Section 31(2) enables a person who is unable to vote at a particular polling station to apply to the Returning Officer for an alternative polling station in the same constituency.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

There is no provision in Irish electoral law which denies a person, who is registered and entitled to vote at an election, that right, based on their legal capacity.

To be entitled to vote, a person must be 18 years of age or over and his/her name must be entered on the register of electors for a constituency in the State in which he/she ordinarily resides. Subject to this primary requirement, the person's citizenship then determines the polls at which he/she is entitled to vote.

The right to vote is as follows:

- Irish citizens may vote at every election and referendum
- British citizens may vote at Dail, European and municipal elections
- Other EU citizens may vote at European and municipal elections
- Non-EU citizens may vote at local elections only

The current provision in Irish electoral law that provides that a person of unsound mind cannot be elected to or be a member of the Dáil or European Parliament is being reviewed at present.

3. How many members of parliament have declared some form of disability?

The Oireachtas has no information on this, as it does not ask Members to make any such declaration. However, where necessary, facilities have been provided in the past.

4. How many persons with disabilities hold ministerial positions?

The Department of the Environment, Community and Local Government does not have information on this. The Houses of the Oireachtas has no information on this, as it does not ask Members to make any such declaration. However, where necessary, facilities have been provided in the past.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

In so far as elections and referendums are concerned, the Department of the Environment, Community and Local Government places advertisements in the media:

- advising people with physical disabilities or physical illnesses who have difficulty gaining access to their local polling station that they may apply to vote at an alternative polling station;
- advising persons of their entitlement to be included in the supplement to Register for Postal Voters List and Special Voters List

The Department of the Environment, Community and Local Government, in consultation with the National Disability Authority, prepares and updates guidance for returning officers (who are responsible for the conduct of elections in their areas) on accessible voting. The guidance provides practical assistance to returning officers to enable voters with disabilities to vote at their local polling station, insofar as is practicable. The guidance highlights that election staff should be made aware of the needs of voters with disabilities and sets out practical steps that staff can take to provide a safe and supportive environment on polling day.

Appendix 1

ELECTORAL ACT 1992 (extract)

General provisions relating to the registration of electors

11.(1)(a) A person shall not be registered as an elector more than once in any registration area nor in more than one such area.

(b) Where it appears that a person may, prima facie, be eligible for registration in respect of two or more premises, the question of which of such premises he shall be registered for shall, subject to any expression of choice by such person, be determined by the registration authority.

(c) Where the premises referred to in paragraph (b) are situated in two or more registration areas, the registration authority for each such area shall take such steps as it considers necessary to ensure that the person is not registered in respect of more than one such registration area.

(d) The provisions of sections 7, 8, 9 and 10 shall have effect subject to the provisions of this subsection.

(2)(a) The qualifying date for every register of electors shall be the date specified for that purpose in the Second Schedule.

(b) For the purposes of this Part, a person's age shall be taken to be that person's age on the date specified for that purpose in the Second Schedule.

(3) For the purposes of this Part—

(a) a person shall be deemed not to have given up ordinary residence if he intends to resume residence within eighteen months after giving it up,

(b) a written statement by a person that he intends to resume residence within eighteen months after giving it up shall, in the absence of evidence to the contrary, be accepted as a correct statement.

(4) (a) Where an elector who is a whole time member of the Defence Forces is resident in any barrack or other premises used for military purposes and there are premises in which he would, but for his service, be ordinarily resident on the qualifying date and, not later than the last day for making claims for registration, he furnishes to the registration authority for the registration area in which the last-mentioned premises are situated, a statement of such premises the statement shall, in the absence of evidence to the contrary, be accepted as a correct statement and he shall be registered in respect of those premises.

(b) (i) In this subsection "a whole time member of the Defence Forces" means—

(I) a member of the Permanent Defence Force, or

(II) an officer of the Reserve Defence Force employed continuously on military service or duty during a period during which a proclamation authorising the calling out of reservists on permanent service is in force, or during a period during which reservists are called out on permanent service under section 88 of the Defence Act, 1954, or

(III) a reservist called out on permanent service.

(ii) In the foregoing subparagraph "the Permanent Defence Force", "officer", "the Reserve Defence Force", "proclamation authorising the calling out of reservists on permanent service" and "reservist" have the same meanings respectively as they have in the Defence Act, 1954.

(5) Where on the qualifying date, a person is detained in any premises in legal custody, he shall be deemed for the purposes of this section to be ordinarily resident in the place where he would have been residing but for his having been so detained in legal custody.

(6) Where on the qualifying date, a person is a patient or inmate in any hospital or home for persons suffering from mental disability or similar institution, he shall be deemed for the purposes of this section to be ordinarily resident in—

(a) in case the place where he would have been residing but for his having been such a patient or inmate can be ascertained by the registration authority — that place,

(b) in case the place mentioned in paragraph (a) cannot be ascertained by the registration authority — the place where he last resided before he became such a patient or inmate.

Entry of names in postal voters list

14. An elector shall be entered in the postal voters list if he is—

(a) a member of the Garda Síochána who not later than the last day for making claims for registration applies to be so entered, or

(b) a whole time member of the Defence Forces (as defined in paragraph (b) of subsection (4) of section 11), or

(c) a person who is deemed by virtue of section 12 to be ordinarily resident in premises in the State on the qualifying date, or

Electoral (Amendment) Act, 1996, Section 4

(d) a person who is ordinarily resident at his residence, applies to be so entered and satisfies the registration authority that –

(i) such person is unable to go in person to vote at the polling place for his polling district by reason of his physical illness or physical disability, and

(ii) the physical illness or physical disability is likely to continue for the period of continuance in force of the register of electors in respect of which the application to be entered as a postal voter is made.

Supplement to the Register of Electors

Electoral (Amendment) Act, 2002, Section 1(i)

Electoral (Amendment) Act 2006, Section 12(a)

14A. (1) Subject to paragraphs (2) and (2A)), an application to be entered on the supplement to the register of electors shall be made by the applicant directly to the registration authority and the declaration on the application shall –

(a) before the application is submitted to the registration authority, be signed by the applicant in the presence of a member of the Garda Síochána from the applicant's local Garda station who, on being satisfied of the applicant's identity, including if necessary, by the production of photographic identification and any other identification that may be requested by that member, shall sign, date and stamp the application form, or

(b) where the applicant establishes in writing that he is unable to comply with subparagraph (a), be signed by the applicant in the presence of an official of the registration authority who, on being satisfied of the applicant's identity, including if necessary, by the production of photographic identification and any other identification that may be requested by that officer, shall sign, date and stamp the application form.

(2) Where the applicant is unable, due to a physical illness or physical disability, to comply with paragraph (1), the application shall be accompanied by a certificate in the form directed by the Minister from a medical practitioner certifying –

(a) the nature and extent of the applicant's physical illness or physical disability, and

(b) an indication of the expected duration of that illness or disability.

Special voters list.

European Parliament Elections Act, 1997, Section 25

17.(1) The registration authority shall prepare a list (in this Act referred to as the "special voters list") of persons (in this Act referred to as "special voters") entitled to vote at a Dáil election in accordance with the provisions of Part XIV, at a presidential election in accordance with the said Part XIV (as applied to a presidential election by section 41 of the Presidential Elections Act, 1993), at a referendum in accordance with the said Part XIV (as applied to a referendum by section 29 of the Referendum Act, 1994), at a European election in accordance with Part V of the Second Schedule to the European Parliament Elections Act, 1997 or at a local election in accordance with Part VIII of the Local Elections Regulations, 1995 (S.I. No. 297 of 1995) without removing the names of the special voters from the register of electors.

(2) The registration authority shall enter in the special voters list the name of every elector who applies to be so entered and who satisfies the registration authority that—

Electoral (Amendment) Act, 1996, Section 4(d)

- (a) such elector is ordinarily resident in a hospital or in a home or similar institution for persons with a physical illness or physical disability and is unable to go in person to vote at the polling place for such elector's polling district by reason of physical illness or physical disability; and
- (b) the physical illness or physical disability is likely to continue for the period of continuance in force of the register of electors in respect of which the application to be entered as a special voter is made.
- (3) The special voters list shall be in such form as the Minister may direct.

Application to be entered in the special voters list

19. The following provisions shall apply in relation to an application to be entered in the special voters list pursuant to section 17

- (a) the application shall be in the form directed by the Minister,
- (b) the application shall be completed in accordance with the instructions provided thereon,
- (c) the applicant shall, in the case of a first application and in the case of subsequent applications whenever required by the registration authority, furnish in support of his application a certificate in the form directed by the Minister from a medical practitioner certifying—
 - (i) the nature and extent of the physical illness or physical disability suffered by such applicant, and
 - (ii) an indication of the expected duration of such physical illness or physical disability,
- (d) the application form duly completed and, where appropriate, the certificate referred to in paragraph (c) shall be delivered or sent by post, so as to be received by the registration authority not later than the date specified for that purpose in Rule 1.

Polling districts and polling places

Local Government (No. 2) Act 2003, Section 7

28. (1) Each local authority shall, as soon as may be after the commencement of this Part, and thereafter at least once in every ten years, following consultation with the returning officer for Dáil elections in respect of the county or county borough and in accordance with regulations made by the Minister, make a scheme dividing the county or county borough into polling districts for the purposes of Dáil elections, European elections and local elections and appointing a polling place for each polling district.

Electoral (Amendment) Act, 1996, Section 2

(1A) Each local authority shall, in making a scheme under this section, endeavour to appoint as polling places only such areas as shall allow the returning officer to provide at each polling place at least one polling station which is accessible to wheelchair users.

Electoral (Amendment) Act, 2001, Section 12

- (2) (a) A scheme under this section made by the local authority shall come into operation on the day specified in the scheme.
- (b) A copy of a scheme made pursuant to this section shall, as soon as may be after it is made, be furnished to the Minister by the local authority.

Polling stations

94.(1) At every polling place the returning officer shall provide a sufficient number of polling stations, conveniently distributed for the accommodation of the Dáil electors entitled to vote there. Where, by reason of any difficulty, a polling station or a sufficient number of polling stations cannot be provided at the appointed polling place, the returning officer may provide a polling station or polling stations at any other convenient place.

Electoral (Amendment) Act, 1996, Section 3(1)(a)

- (1A) The returning officer shall, where practicable, provide polling stations which are accessible to wheelchair users.
- (2) The returning officer shall allot the Dáil electors to the polling stations in such manner as, in his opinion, will be most convenient for them.
- (3) The returning officer shall give public notice of the location of polling stations in each polling place and the description of Dáil electors allotted to vote at each such place.

Electoral (Amendment) Act, 1996, Section 3(1)(b)

- (3A) The returning officer shall, where practicable, give public notice of all polling stations which are inaccessible to wheelchair users not later than the eighth day before polling day.
- (4) The returning officer shall make adequate provision for the heating, lighting and cleaning of each polling station.
- (5) The returning officer shall provide at each polling station—
 - (a) such number of compartments in which the voters can mark their ballot papers screened from observation, as he considers necessary,

- (b) such furniture as he considers necessary,
- (c) a sufficient number of ballot boxes,
- (d) such number of ballot papers as he considers necessary,
- (e) instruments for placing the official mark on ballot papers,
- (f) copies of the register or such part thereof as contains the names of the Dáil electors allotted to vote at the station,
- (g) such materials as he considers necessary to enable voters to mark their ballot papers,
- (h) such other documents, forms, stationery and other materials as he considers necessary.

Electoral (Amendment) Act, 1996, Section 3(1)(c)

- (i) such other arrangements as may serve to facilitate the marking and placing in the ballot box of ballot papers by voters who may be wheelchair users,
- (j) such arrangements as the Minister may provide for by regulations as may serve to facilitate voters with visual impairments to mark their ballot papers without assistance.

Authorisation of physically ill or physically disabled elector to vote at another polling station

100. Where, not less than 7 days before polling day at a Dáil election, a Dáil elector, whose name is not on the postal voters list or the special voters list, satisfies the returning officer that he is unable, by reason of physical illness or physical disability suffered by him, to vote at the polling station at which he would otherwise be entitled to vote, the returning officer may, if he is of opinion that it would be more convenient for the elector because of his physical illness or physical disability to vote at another polling station situate in the same constituency, in writing authorise the elector to vote at such polling station as may be specified in the authorisation instead of the polling station at which the elector would otherwise be entitled to vote.

Voting by blind, incapacitated and illiterate electors

103.(1) Where a Dáil elector applying for a ballot paper satisfies the presiding officer that his sight is so impaired or that he is otherwise so physically incapacitated or that he is unable to read or write to such an extent that he is unable to vote without assistance, this section shall apply.

(2) For the purposes of subsection (1) the presiding officer may, and if required by any personation agent present in the polling station shall, administer to the Dáil elector before delivery of the ballot paper an oath or (in the case of a person who objects to taking an oath on the ground that he has no religious belief or that the taking of an oath is contrary to his religious belief) an affirmation in the following form:
 'I swear by Almighty God (or — do solemnly, sincerely and truly declare and affirm — as the case may be) that my sight is so impaired (or — that I am so physically incapacitated or—that I am unable to read or write to such an extent — as the case may be) that I am unable to vote without assistance" and if the Dáil elector refuses to take the oath or make the affirmation, this section shall not apply.

Electoral (Amendment) Act, 2001, Section 26

(3) Where this section applies in the case of a Dáil elector who satisfies the presiding officer that his sight is so impaired or that he is otherwise so physically incapacitated or that he is unable to read or write to such an extent that he is unable to vote without assistance, the elector may request that his ballot paper shall be marked for him by a companion and, subject to subsection (4), the companion may go with the elector into one of the compartments in the polling station and there shall mark the ballot paper for the elector and shall fold it and show the back of the folded paper to the presiding officer so as to disclose the official mark and forthwith place the paper in the ballot box.

PRESIDENTIAL ELECTIONS ACT 1993 (extract)

Authorisation to vote at another polling station.

43.(1) Where a presidential elector is employed by a local returning officer for any purpose in connection with a presidential election and the circumstances of the elector's employment are, in the opinion of the local returning officer, such as to prevent him from voting at the polling station at which the elector would otherwise be entitled to vote, the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such other polling station in the constituency in which he is so employed as may be specified in the authorisation.

Electoral (Amendment) Act, 2001, Section 52(e)

(1A)(a) Where a presidential elector is employed by a local returning officer for any purpose in connection with a presidential election and is registered to vote in a constituency, other than one in which the employment occurs, the elector shall, on application being made by him in that behalf, be entitled to have his name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A of the Electoral Act, 1992. An application under this section shall be made on a form directed by the Minister, and the local returning officer who is employing the person shall certify on the

form that the person will be employed by him on polling day in connection with the election and will be unable to vote in person in the constituency at the polling station at which the presidential elector would otherwise be entitled to vote.

(b) Where an application under paragraph (a) is granted, the registration authority shall note the register of electors by placing a mark on the register against the number and name of the elector to denote that the elector's name is on the postal voters list.

(c) Section 15A(2)(d) of the Electoral Act, 1992, shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were a reference to this subsection.

(d) Subsection (4) of section 15A of the Electoral Act, 1992, shall not apply to an application under this subsection.

(2) Where, not less than 7 days before polling day at a presidential election, a presidential elector whose name is not on the postal voters list or the special voters list, satisfies the local returning officer that he is unable, by reason of physical illness or physical disability suffered by him, to vote at the polling station at which he would otherwise be entitled to vote and the local returning officer is of opinion that it would be more convenient for the elector because of his physical illness or physical disability to vote at another polling station in the same constituency, the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such other polling station in the same constituency as may be specified in the authorisation.

LOCAL ELECTIONS REGULATIONS, 1995 (extract)

Authorisation of physically ill or physically disabled elector to vote at another polling station

62. Where, not less than 7 days before the polling day at an election, an elector, whose name is not on the postal voters list or the special voters list, satisfies the returning officer that the elector is unable, by reason of that elector's physical illness or physical disability, to vote at the polling station at which the elector would otherwise be entitled to vote, and the returning officer is of opinion that it would be more convenient for the elector because of that physical illness or physical disability to vote at another polling station in the same local electoral area, the elector may, if so authorised in writing by the returning officer vote at such polling station in the same local electoral area as may be specified in the authorisation.

EUROPEAN PARLIAMENT ELECTIONS ACT 1997(extract)

Authorisation of physically ill or physically disabled elector to vote at another polling station

61. Where, not less than 7 days before polling day at a European election, a European elector whose name is not on the postal voters list or the special voters list, satisfies the local returning officer that the elector is unable, by reason of his or her physical illness or physical disability, to vote at the polling station at which the elector would otherwise be entitled to vote and the local returning officer is of opinion that it would be more convenient for the elector because of that physical illness or physical disability to vote at another polling station in the same constituency the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such other polling station in the same constituency as may be specified in the authorisation.

REFERENDUM ACT 1994 (extract)

Authorisation to vote at another polling station

31.(1) Where an elector is employed by a local returning officer for any purpose in connection with a referendum and the circumstances of the elector's employment are, in the opinion of the local returning officer, such as to prevent the elector from voting at the polling station at which the elector would otherwise be entitled to vote, the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such polling station in the constituency in which the elector is so employed as may be specified in the authorisation.

Electoral (Amendment) Act, 2001, Section 55(e)

(1A) (a) Where a presidential elector is employed by a local returning officer for any purpose in connection with a referendum and is registered to vote in a constituency, other than one in which the employment occurs, the elector shall, on application being made by him in that behalf, be entitled to have his name entered in a supplement to the postal voters list which the registration authority is empowered to prepare and publish in accordance with section 15A of the Electoral Act, 1992. An application under this section shall be made on a form directed by the Minister, and the local returning officer who is employing the person shall certify on the form that the person will be employed by him on polling day in connection with the referendum and will be unable to vote in person in the constituency at the polling station at which the presidential elector would otherwise be entitled to vote.

(b) Where an application under paragraph (a) is granted, the registration authority shall note the register of electors by placing a mark on the register against the number and name of the elector to denote that the elector's name is on the postal voters list.

(c) Section 15A(2)(d) of the Electoral Act, 1992, shall apply to an application for entry in a supplement to the postal voters list under paragraph (a) as if references in that provision to paragraph (a) or (b) of section 14 were a reference to this subsection.

(d) Subsection (4) of section 15A of the Electoral Act, 1992, shall not apply to an application under this subsection.

(2) Where not less than 7 days before polling day at a referendum, an elector whose name is not on the postal voters list or the special voters list, satisfies the local returning officer that the elector is unable, by reason of that elector's physical illness or physical disability, to vote at the polling station at which the elector would otherwise be entitled to vote and the local returning officer is of opinion that it would be more convenient for the elector because of that physical illness or physical disability to vote at another polling station in the same constituency, the elector may, if so authorised in writing by the local returning officer in such form as may be directed by the Minister, vote at such other polling station in the same constituency as may be specified in the authorisation.

19. ITALY / ITALIE

According to the article 48, par. IV, of the [Italian Constitution](#), the right to vote cannot be restricted except for civil incapacity or as a consequence of an irrevocable penal sentence or in cases of moral unworthiness as laid down by law.

The Italian legal system determines the circumstances in which it is necessary to ensure the exercise of voting rights to certain categories of people in need:

- the municipality must organize public transport services supporting voters with limited mobility in the achievement of the polling station (Art. 29, par. 1, of the [Law 104/1992](#));
- if the relevant polling station is not accessible by wheelchair, the non-ambulatory voter can exercise his right to vote in another polling station barrier-free, identified according to the criteria of the Law ([Law 15/1991](#) and art. 29, par. 2, of the mentioned Law 104/1992);
- the blind, the amputees of the hands, those suffering from paralysis or other impediment of comparable gravity are entitled to exercise their right to vote through the assistance of a trusted person (assisted voting, articles 55 and 56 of the [Decree 361/1957](#)). The condition giving entitlement to assisted voting shall be proved by the relevant certificate, issued immediately and without charge by doctors appointed by the Local Health. The certificate must state that the physical infirmity prevents the voter to cast the vote without the help of another voter; the certificate is then added to the acts of the polling station. In order to prevent the release of such certificate for each election, physically prevented voters may request the permanent record on their voting card of the right to assisted voting. Such annotation allows admission to assisted voting for subsequent elections without further formalities;
- voters suffering from serious illness, non-transportable (even with the help of the services provided for the art. 29 of the L. 104/1992) or in condition of continuous and vital dependence of electro-medical devices, such as to prevent their removal from the living house, may vote at home ([Law 46/2009](#));
- the patients in hospitals and nursing homes are eligible to vote in the place of refuge (art. 42 of the [Decree 570/1960](#)).

With regard to civil incapacity, it is necessary to point out that, apart from minors (in Italy the age of majority is now reached at the age of 18), it affects persons declared by a court totally or partially mentally incompetent. The rules of law excluding these persons from the right to vote and the suspension of the electoral right for hospitalised in psychiatric hospitals (articles 2 and 3 of the [Decree 223/1967](#)) were repealed by the article 11 of the [Law 180/1978](#), so called 'Basaglia Law', that ordered the closure of psychiatric institutions. So, at present, the constitutional limit regarding civil incapacity is unrealised, therefore mentally disabled persons can exercise the right to vote. For the mentally disabled the accompaniment is not provided, not even by a family member, unless the person is in one of the above mentioned conditions. To ensure the spirit of the Law 180/1978, 'bringing to vote' the persons declared totally or partially mentally incompetent may represent an interference with his will, which would limit their ability to self-assertion.

As for the requirements for eligibility, the [Italian Constitution](#) states that all voters who have attained the age of 25 on the day of elections are eligible to be deputies (art. 56) and voters who have attained the age of 40 are eligible to be elected to the Senate (art. 58).

In practice, neither the MPs and ministers declare their disability, nor the related data is collected on official and systematic way. There are, however, undoubtedly MPs with obvious physical disabilities: for example, the deputy [Ileana Argentin](#), suffering from spinal muscular atrophy, and the former deputy and minister [Antonio Guidi](#), suffering from spastic quadriplegia.

In Italy there are no specific initiatives to facilitate the participation of disabled people in the country's political life. However, on the 3rd December Italy celebrates the International Day for the Rights of Persons with Disabilities, as stipulated by the ['World Programme of Action concerning Disabled Persons'](#), adopted in 1982 by the UN General Assembly.

20. LATVIA / LETTONIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Latvia has ratified Convention on the Rights of Persons with Disabilities and Optional Protocol to the Convention on the Rights of persons with Disabilities in 2006. According to the Constitution of the Republic of Latvia Article 91 "All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind." The Saeima has adopted a Disability Law which is based on the respect of human rights and dignity of persons with disabilities and regulates the inclusion of persons with disabilities in all spheres of life.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to the Constitution of the Republic of Latvia:

All citizens of Latvia who enjoy full rights of citizenship and, who on election day have attained eighteen years of age shall be entitled to vote.

Any citizen of Latvia, who enjoys full rights of citizenship and, who is more than twenty-one years of age on the first day of elections may be elected to the Saeima.

Person can be declared as lacking of legal capacity only by the court.

3. How many members of parliament have declared some form of disability?

There is no such statistics.

In 8th Saeima (2004-2007) a person in a wheelchair served as MP. The building of the Saeima was renovated to accommodate people with disabilities.

4. How many persons with disabilities hold ministerial positions?

There is no such statistic.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Political parties are interested to spread their opinion to potential votes and they can address their voters in different ways – by organizing meetings, discussions, campaign materials rarely have versions for disabled persons. During the election campaign the information is provided to all citizens through electronic media, TV, programmes related to election campaigns contain reporting in sign language. Information in the official website of the Central Election Commission is available in easy read language. The answer to the ECPRD request Nr.2956 is still valid.

Replies to ECPRD request 2956

(1) On the basis of a written submission which is filed by a voter, a person authorised by him/her or his/her trustee and which is registered in a special journal, the polling station commission shall conduct voting by secret ballot at the place where the voter is located (off-site) for the following voters:

- 1) for voters unable to come to the polling station for health reasons, as well as for their caretakers;
- 2) for caretakers of the ill.

Specially authorised observers shall have the right to supervise such voting.

(2) *(Deleted by the 6 February 2014 Law).*

(3) Other voters shall not be permitted to vote outside the polling station.

(4) On election day, the polling station commission shall continue to accept written requests to conduct off-site voting. Requests received after 12 o'clock shall be fulfilled if it is possible to arrive at the place where the voter is located before 8 p.m.

(5) Names of the voters who vote off-site as provided in Paragraphs 1 and 2 of this Article shall be entered in a separate list of voters, and their sealed ballot envelopes shall be dropped into a separate sealed ballot box.

(6) Information about the ballot envelopes issued at the place where the voter is located and unused ballot envelopes, including damaged ones, shall be entered in the journal of the voting process.

(7) *(Deleted by the 26 February 2009 Law).*

(As amended by the 30 May 2002 Law, the 9 March 2006 Law, the 26 February 2009 Law and the 6 February 2014 Law)

If a physical disability prevents a voter from voting or signing the list of voters, a member of his/her family or some other trusted person shall make marks in the ballot paper and shall sign the list of voters in the voter's presence according to his/her instructions. A special entry to this effect shall be made in the list of voters. A member of the relevant election commission may not act as this trusted person.

In Latvia there are no provisions that require mandatory quotas/percentage of candidates on the party lists for people with disability.

21. LITHUANIA / LITUANIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

According to Article 3 of the Law on Social Integration of Disabled Persons, persons with disabilities enjoy the same rights and have the same access to education, work, leisure, social, political and community life as other members of society. Only in cases where the same conditions and measures appear non-effective, special measures improving situation of persons with disabilities must be applied. Measures improving possibilities of disabled persons to vote in elections, specified in our reply to the ECPRD Request 2956, may be considered as example of such special measures. They are still valid.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to Article 34 of the Lithuanian Constitution, citizens who are declared by a court to be legally incapacitated shall not participate in elections (incapacitated persons may not stand as candidates and may not vote). Only mental illness (disorder) may cause person's incapacitation. The court restores a person's legal capacity where a person gets over his mental illness or the state of his health improves considerably. The spouse of the incapacitated person, his (her) parents, adult children, care institution or public prosecutor have the right to apply to the court with the request to restore person's legal capacity. Since 1 January 2016 incapacitated persons themselves and newly established commissions for re-assessment of the state of incapacitated persons operating in municipalities also may submit to the courts requests concerning capacity restoration. Aforementioned commissions re-assess state of incapacitated persons on their own initiative and may apply to the court in cases where other persons entitled with the right to apply to the court for capacity restoration fails to do it within one year of the entry into force of court's decision concerning incapacitation (Articles 2.10 – 2.10¹ of the Lithuanian Civil Code).

3. How many members of parliament have declared some form of disability?

Formal declarations of this kind do not exist in the Seimas. Currently the only MP is provided with special working conditions by the Office of the Seimas due to his disability (blindness).

4. How many persons with disabilities hold ministerial positions?

There are no persons with disabilities among members of Lithuanian Government currently in office.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The need to encourage more active participation of persons with disabilities in public life is underlined in the National Programme for Social Integration of the Disabled 2013–2019 adopted by Lithuanian Government. Concrete measures improving possibilities of disabled to take part in electoral procedures were provided for in documents aimed at implementation of aforementioned Programme. Such measures cover adapting of polling stations to the needs of people with disabilities, appointment of persons representing associations of disabled as electoral observers, publication of electoral information in easy-to-read versions or braille, etc.

New electronic platform “Voter’s page” containing version for disabled persons was developed and introduced by the Lithuanian Central Electoral Commission in 2015.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Voting at polling station

According to the Law on Elections to the Seimas suitability of polling stations provided for elections and their installation for needs of voters with mobility and (or) vision impairment and older voters must be evaluated by municipal institutions responsible for adjusting public buildings for special needs. Voters shall vote in person and by secret ballot. It shall be prohibited for a person to vote instead of another person or to vote by proxy. A voter, who because of his physical disability cannot cast a ballot himself, may vote with the assistance of another person whom he trusts. The voter who, because of his physical disability, is unable to carry out actions specified in this Article, the ballot papers shall, on his request, be marked by a person chosen by the abovementioned voter. Such person must mark the ballot papers in the presence of the voter and according to his instructions, keep the secrecy of voting and cast the ballot papers into the ballot box in the presence of the voter. Members of the electoral committees, election observers and representatives for elections shall be prohibited from carrying out voting-related actions for the disabled voter (Article 66 of the Law).

Voting at home

Only the following persons may vote at home: disabled voters, voters with temporary working incapacity, voters aged 70 and over if because of the health condition they are unable to come to a polling district to vote on an election day and if they have produced a voter’s request, the form of which is set by the Central Electoral Commission, for voting at home. The electoral committees which draw up and revise rolls of voters voting at home shall have the right to receive the data on disabled person from the State Social Insurance Fund Board or its territorial offices, and the data on persons with temporary working incapacity – from healthcare institutions. The electoral committees may not disseminate these data and shall use them only for compilation and revision of rolls of voters voting at home.

On the Friday or Saturday preceding an election day, from 8 am till 8 pm at least two members of a polling district committee shall deliver postal voting envelopes and ballot papers to the homes of the voters who have been entered on the roll of the polling district voters voting at home and who are the voters of this polling district. On the Thursday preceding an election day at least two members of a constituency electoral committee or, by order of its chairman, at least two members of a polling district committee shall deliver postal voting envelopes and ballot papers to the homes of the voters who have been entered on the roll of the constituency voters who vote at home, but who have not been entered on the electoral roll of the polling district within the territory of which they temporarily stay. Voting at home and early voting may be observed by election observers who have a certificate to observe elections in any polling district of this constituency. After the end of voting, sealed return envelopes shall be transferred to the constituency electoral committee which transfers them to polling districts together with election documents of the voters who have voted by post. The rolls of voter who have voted at home and early, ballot papers which have not been used shall be including into an accounting and stored by an electoral committee which has organised the voting, and after the end of elections they shall be transferred together with other election documents to an appropriate constituency committee or the Central Electoral Commission (Article 671 of the Law).

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

22. LUXEMBOURG

1. Votre pays dispose-t-il d’une législation particulière concernant les droits politiques et la participation des personnes handicapées? Pourriez-vous préciser ce que couvre cette législation et quelles garanties sont données? Si vous avez déjà envoyé une réponse à la requête 2956, nous vous serions reconnaissants de bien vouloir indiquer s’il y a eu des changements législatifs depuis 2015.

Hormis l’article 79 de la loi électorale modifiée du 18 février 2003⁹ le Luxembourg ne dispose pas d’une législation particulière concernant les droits politiques et la participation des personnes handicapées. Concernant la réponse à la requête 2956, il n’y a pas eu des changements législatifs depuis 2015.

⁹ Art. 79.

Lorsqu’il est constaté qu’un électeur est aveugle ou infirme, le président l’autorise à se faire accompagner d’un guide ou

2. Le droit de voter et celui d'être élu sont-ils liés à la capacité juridique? Si tel est le cas, de quelle manière? Lorsqu'une personne est privée de son droit de voter et d'être élue, cette décision est-elle réévaluée régulièrement?

Le droit de voter et celui d'être élu sont liés à la capacité juridique.

Ainsi, l'article 53 de la Constitution précise que:

Art. 53. «Ne peuvent être ni électeurs ni éligibles:

1° les condamnés à des peines criminelles;

2° ceux qui, en matière correctionnelle, sont privés du droit de vote par condamnation;

3° les majeurs en tutelle.

Aucun autre cas d'exclusion ne pourra être prévu.

Le droit de vote peut être rendu par la voie de grâce aux personnes qui l'ont perdu par condamnation pénale.»

Selon le premier rapport périodique du Grand-Duché de Luxembourg concernant la mise en œuvre de la Convention des Nations Unies relative aux droits des personnes handicapées (CRDPH, approuvée avec l'entrée en vigueur de la loi du 28 juillet 2011) publié en mars 2014, «le projet de loi portant révision de la Constitution luxembourgeoise actuellement en cours prévoit une adaptation des dispositions permettant la possibilité du droit de vote, y compris pour des personnes sous tutelle. Il est prévu que ces dernières ne devront plus être automatiquement privées de leur droit de vote. La déchéance de ce droit ne devra intervenir que dans des cas précis et devra être ordonné par décision de justice.».

3. Combien de membres du parlement ont déclaré une forme quelconque de handicap?

Aucun.

4. Combien de postes ministériels sont occupés par des personnes handicapées?

Aucun.

5. Quelles mesures concrètes sont prises pour garantir la participation des personnes handicapées à la vie politique et publique, y compris au sein des partis politiques, des organisations non-gouvernementales et des associations? Les matériels de campagne et/ou électoraux sont-ils systématiquement accessibles aux personnes handicapées (versions faciles à lire, braille, sous titres, etc.)?

Pour que le « droit de vote pour tous » prévu dans le plan d'action de mise en œuvre de la CRDPH du Gouvernement luxembourgeois devienne une réalité concrète, il est envisagé de garantir l'accessibilité des bureaux de vote ainsi que la fourniture de bulletins de vote adaptés aux besoins des personnes handicapées. D'après le premier rapport périodique du Grand-Duché de Luxembourg concernant la mise en œuvre de la CRDPH, «chacun doit être mis en mesure de comprendre les programmes électoraux. A cet effet, il est indispensable de disposer d'informations dans des formats accessibles, notamment par l'usage d'un langage simple. D'autres personnes ont besoin de l'interprétation en langue des signes. Depuis 2007, le ministère de la Famille assure le financement d'un interprète en langue des signes. Il intervient gratuitement, notamment lors de réunions et d'événements organisés par les associations de et pour personnes malentendantes, les conférences ou les assemblées générales.».

Il est en outre projeté de traduire en langue des signes de plus en plus de formats télévisés diffusés en direct, tels les émissions diffusées lors des élections nationales et communales et d'autres émissions d'intérêt national. Certaines séances de la Chambre des Députés, notamment celles où sont traités des sujets qui concernent plus particulièrement les personnes en situation de handicap, sont diffusés en direct sur internet et sur « Chamber TV » en langue des signes. A noter aussi que l'Etat luxembourgeois soutient de nombreuses ONG actives dans le domaine du handicap moyennant des subsides réguliers ou occasionnels.

Réponses à la demande CERDP 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Article 79 of the electoral law provides that "if it is noted that a voter is blind or infirm, the president [of the polling station] allows him to be accompanied by a guide or a support and even to make formulate by this guide or support the vote that it is impossible to him to formulate."

d'un soutien et même à faire formuler par celui-ci le vote qu'il se trouverait dans l'impossibilité de formuler lui-même.

«Le guide ou soutien ne doit pas nécessairement être électeur. Ne peuvent pas être guides ou soutiens d'un électeur aveugle ou infirme les candidats aux élections, leurs parents ou alliés jusqu'au deuxième degré inclusivement, les titulaires d'un mandat électif national, européen ou communal, les personnes qui ne savent pas lire ou écrire ainsi que celles qui sont exclues de l'électorat d'après les dispositions de l'article 6 de la présente loi.»

Les noms de l'électeur et de son guide ou soutien ainsi que la nature de l'infirmité invoquée doivent être inscrits au procès-verbal.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No, such quotas for people with disabilities do not exist in Luxembourg.

23. MALTA / MALTE

Replies sent by the secretariat of the Maltese delegation to PACE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? We would be very grateful if you could indicate whether there have been some legislative changes since 2015 in case your parliament already sent a reply to the request 2956.

According to the Constitution of Malta, Article 58:

No person shall be qualified to be registered as a voter for the election of members of the House of Representatives if -

(a) he/she is interdicted or incapacitated for any mental infirmity by a court in Malta or is otherwise determined in Malta to be of unsound mind.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

"Currently a Medical Board, constituted of professionals trained specifically in areas of mental health, assesses persons with mental health difficulties in order to assess their capacity to vote" (National State Report, 2014).

3. How many members of parliament have declared some form of disability?

4. How many persons with disabilities hold ministerial positions?

No data available

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, Braille, subtitles, etc.)?

Political Participation

Ongoing discussions between the Parliamentary Secretariat for persons with a Disability and Active Ageing, National Commission Persons with a Disability (NCPD), the Electoral Office and other involved stakeholders are carried out to discuss the way forward, in providing a more accessible voting mechanisms. Voting is generally carried out in school buildings which are accessible for persons with disabilities. Currently Malta does not have electoral provisions in place with regards to electronic voting, as the technical infrastructure in polling booths and possibly counting halls are not in place. However, Braille and e-use of headphones for those with visual impairments are provided. Assistance to those persons who cannot write and read is also offered.

Measures being taken (directly related to public and political life of PWD):

Both the National Disability Policy (2014), and the National Disability Strategy (2016), highlight public and political participation of persons with a disability under the theme 'Right to live a dignified life'.

The National Disability Strategy highlights the principle:

"Persons with a disability must be accorded with equal rights, with particular emphasis on: The Freedom of Movement, the Freedom of Participation, the Freedom of Voting, the Freedom of Association, the Freedom of Expression, the Right to Privacy, and finally the Freedom of religious belief". (National Disability Strategy, 2016)

To support the above principle eleven strategic action plans are suggested in the above mentioned National Strategy, mainly;

- UNCRPD Act (in its second reading in Maltese Parliament).
- All government boards, agencies and authorities to have statutory persons with a disability represented on them.
- Discussions (as mentioned above) between political parties, the National Electoral Commission and NCPD, on new inclusive voting mechanisms.

Other measures which indirectly support public and political life of persons with disabilities:

Malta provides other indirect measures aimed at a more inclusive and right society towards persons with a disability in public and political life. Apart from the above mentioned National Disability Policy and the National Disability Strategy, new national legislations are responding positively to the rights and needs of persons with a disability. The following amendments and/or new legislation are examples of concrete actions taken by the Maltese Government:

- Sign Language Recognition Act (2015),
- Persons with Autism Spectrum Act (2015),
- Amendment of the Equal Opportunities Act (2016).

Malta through its Parliamentary Secretariat for the Rights of Persons with a Disability and Active Ageing is in constant discussion with persons with a disability, their representatives, families, NGOs and other stake holders. Thus this enables the Government to, apart from following its Electoral Manifesto, supports, through various initiatives, the needs and rights of persons with a disability along the way.

24. MONTENEGRO

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Law on Prohibition of Discrimination of Persons with Disabilities (“*Official Gazette of Montenegro*” no 35/15 of 7 July 2015, 44/15 of 7 August 2015) regulates prohibition and protection from discrimination of persons with disabilities, as well as promotion of equality of persons with disabilities and other persons.

Article 25 of the Law stipulates that the following shall be considered discrimination based on disability in the area of political and public life:

- 1) denying, limiting or hindering exercise of the right to vote to a person or group of persons with disabilities in the context of regulations governing the election of Councilors and MPs;
- 2) denying the right to independent voting or voting with the help of an assistant to a person or group of persons with disabilities on request and by choice of a person or group of persons with disabilities;
- 3) preventing, limiting or hindering access, movement, stay and work in the premises of political parties;
- 4) denying or limiting the rights to stand for elections, to be nominated and elected to public office to a person with disabilities if these rights are not denied or limited to other persons in the same or similar situation;
- 5) failing to take and failing to implement regulations and measures of bodies referred to in Article 5 Paragraph 1¹⁰ of this Law for creating conditions for full and effective participation of persons with disabilities in the performance of public office;
- 6) refusing request and setting special conditions to a person or group of persons with disabilities for becoming a member of non-governmental organizations;
- 7) denying or limiting to a person with disabilities the right to elect and be elected to the public institutions’ management bodies, non-governmental organizations and other institutions, as well as to efficiently perform public office at all levels of government with the help of technologies for support to persons with disabilities.

Furthermore, Montenegro ratified Convention on the Rights of Persons with Disabilities in July 2009.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Article 45 of the Constitution of Montenegro (“*Official Gazette of Montenegro*” no 01/07 of 25 October 2007, 38/13 of 2 August 2013) provides that the right to elect and stand for elections shall be granted to the citizen of Montenegro who has attained 18 years of age and who has at least two years of residence in Montenegro. The electoral right shall be exercised in elections and it shall be universal and equal. Elections shall be free and direct and voting shall be secret. Moreover, Article 11 of the Law on Election of Councilors and Representatives (“*Official Gazette of Montenegro*” no 48/06 of 28 June 2006, 56/06 of 7 September 2006, 46/11 of 16 September 2011, 14/14 of 22 March 2014, 47/14 of 7 November 2014) stipulates that a voter who has attained 18 years of age, with legal capacity and permanent residence in Montenegro for no less than two years prior to the polling day, shall be entitled to elect and be elected an MP. A voter who has attained 18 years of age, with legal capacity and permanent residence in Montenegro for no less than two years and

¹⁰ State bodies, state authorities, local self-government units, public enterprises and other legal entities vested with public powers (hereinafter referred to as: the bodies), as well as other legal and natural persons within their competencies and powers, shall be obliged to deliver, that is, introduce and implement, regulations and special measures, aimed at creating conditions for the realization of equality and protection of persons with disabilities, who are on any ground in an unequal position compared to other persons. (*Article 5 Paragraph 1*)

permanent residence in a municipality, or a city municipality as an electoral district for no less than six months prior to the polling day shall be entitled to elect and be elected a councilor.

This Law provides that the Municipal Election Commission shall be obliged to facilitate access to the polling station for persons with disabilities. (*Article 65, Paragraph 5*)

Article 68 stipulates that the local authority in charge of maintaining of the Register of Electors shall deliver the notice on election to the electors no later than 5 days prior to the polling day. The local authority shall deliver the notice on election to the electors by delivering it to the home address. The above mentioned notice shall contain: the date and time of holding the elections, the number and the address of the polling station where he/she votes, as well as the number under which he/she has been registered in the extract from the Register of Electors. A voter with disability must submit a request for notice to the ministry responsible for voter lists at least 15 prior to the polling day. The request shall state the form in which the notice shall be submitted. However, the aforementioned notice shall not be the condition for the exercise of voting rights.

Additionally, a voter who is unable to cast his/her vote in person (blind, disabled or illiterate person) shall be entitled to bring another person with him/her who shall, on behalf of this person, and according to his/her instructions, mark the ballot, that is, perform the voting procedure. However, the voting shall not be performed either by a member of the Polling Board or an authorized representative of the submitter of the list of candidates. (*Article 84*) Also, a voter who due to age, disability, hospital or home care is not able to vote at the polling station shall submit a request for voting by post, in the prescribed form, to the electoral committee. A voter who wants to vote by post shall be required to personally sign the aforementioned form. (*Article 85, Paragraphs 1 and 2*)

3. How many members of parliament have declared some form of disability?

No MPs have declared any form of disability.

4. How many persons with disabilities hold ministerial positions?

Currently, there are no persons with disabilities holding ministerial position.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Government of Montenegro in December 2007 adopted the Strategy for Integration of Persons with Disabilities in Montenegro¹¹ for the period 2008-2016. This document comprises the following areas: health care, social protection and pension disability insurance, education, professional training and employment, accessibility, culture, sport and recreation, as well as the field related to the position of disabled people's organizations in civil society. The Strategy envisages measures and activities to be undertaken during the aforementioned period, in order to make the position of persons with disability in Montenegro in accordance with the European standards and standards prescribed by the UN Convention on rights of person with disabilities. The aim of the Strategy in the area of organizations of persons with disabilities and civil society is the following: provide the conditions so that people with disabilities can achieve effective and full participation in political and public life on an equal basis with others, directly or through freely chosen representatives and through their organizations.

Some of the measures of the Strategy in this area are the following:

- Develop and implement actions that will promote an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs;
- Ensure that voting procedures, facilities and materials are appropriate, accessible and easy to understand for persons with disabilities;
- Organise programmes of psychological strengthening of persons with disabilities for participation in political life;
- Ensure the possibility to stand for elections, to effectively hold office and perform all public functions at all levels of government, through the use of assistive and new technologies where appropriate;
- Through ongoing campaigns popularize the rule that on electoral lists of candidates for MPs and councilors should be at least 3% of persons with disabilities and continuously inform the public about the political parties and electoral lists which have undertaken and implemented this policy.

In terms of improving the social life of persons with disabilities, when it comes to their participation in political and public life, the Ministry for Human and Minority Rights has, in cooperation with the NGO sector, after the

¹¹ <http://www.mrs.gov.me/biblioteka/strategije> (available only in Montenegrin language)

successful implementation of the pilot project in the last presidential elections which made possible completely independent and secret ballot for blind and visually impaired persons through "ballot template", undertaken activities so that this commitment in the implementation of the electoral process enters the new Law on Election of Councilors and MPs of Montenegro as well. In the local elections, which were held in May 2014, this new legal requirement was fully implemented, in cooperation with the municipal election commissions.

In 2014, the obligation of ministries and local self-governments to consult, when preparing policies and legal documents relating to persons with disabilities, with organizations of persons with disabilities continued to be implemented. Thus, a large number of NGOs dealing with rights of persons with disabilities took part in working groups and bodies that create policies or draft regulations that apply to them.¹² Moreover, Ministry for Human and Minority Rights, (in cooperation with the Association of the Blind of Montenegro, Association of Youth with Disabilities of Montenegro), implemented a procedure to provide visually impaired and blind persons the necessary conditions, using the voting patterns, to exercise their political right to vote independently and secretly. These activities were initiated with a pilot project implemented in the presidential elections held in April 2013, and the pilot municipality was Danilovgrad. The possibility of independent voting for the visually impaired in the recent presidential election was realised so that each polling place had one voting pattern through which blind people can vote without an escort, even if they do not know Braille. This pilot project has demonstrated the advantages this social group can use to independently cast their vote for the selected representatives.

Furthermore, Protector of Human Rights and Freedoms made a series of recommendations adopted by the Committee for Human Rights and Freedoms of the Parliament of Montenegro, as a conclusion intended for state authorities, state government, local government bodies and local governments, as well as holders of public authority, in order to make possible equal participation of persons with disabilities in public life, and combat discrimination based on disability: ensure the accessibility of public buildings and spaces for persons with disabilities, develop existing and establish new support services for these individuals, promote activities related to promotion, prevention and protection from discrimination, establish records and databases of all reported cases of discrimination, strengthen the administrative capacity of relevant institutions to combat discrimination against these persons and the like.¹³

25. NETHERLANDS / PAYS-BAS

No members of The Dutch Senate have declared some form of disability (question 4).

The other 4 questions regard the Dutch situation in general and will be answered by The Dutch House of Representatives.

Replies sent by the House of Representatives

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Dutch Law generally does not provide for specific legislation concerning political rights and participation for persons with disabilities. Instead, art. 1 of the Constitution of the Kingdom of the Netherlands says: 'All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted'. The Dutch answer to ECPRD request 2956 on "Participation in the elections of people with disability" is still up to date. Since 2015 there haven't been legislative changes in this matter.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The right to vote or the right to be elected is not linked to legal capacity.

A voter must meet the following requirements to be entitled to cast their vote in the elections to the House of Representatives:

- the voter must possess Dutch nationality
- the voter must be 18 years of age or over
- the voter must not be debarred from voting

¹² A Communication on the Implementation of the Action Plan for the Strategy for the Integration of Persons with Disabilities in Montenegro For 2014 (Available in English) <http://www.mrs.gov.me/en/library/izvjestaji>

¹³ Initial Report on the Implementation of the Convention on the Rights of Persons with Disabilities (Available in English) <http://www.mrs.gov.me/en/library/izvjestaji>

3. How many members of parliament have declared some form of disability?

There are no official records on members of parliament with disabilities.

4. How many persons with disabilities hold ministerial positions?

There are no official records on persons with disabilities in ministerial positions.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Electoral Act of the Netherlands says as many polling stations as possible, but no fewer than 25% of the total number, must be in buildings accessible to voters with a physical impairment and be in a location that is easy to reach for such voters. ([Kieswet art. J4](#))

The Electoral Act says also it is allowed for people with a physical disability to get assistance in voting from a person chosen by themselves or someone from the polling station. ([Kieswet art. J28](#))

Voters unable to cast their vote in person on election day may have their vote cast by proxy. When it is impossible to put a signature because of physical disability, the voter can authorize another to vote on his behalf when on his identity card the comment 'not capable to sign'.

26. NORWAY / NORVEGE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

General provisions

In May 2014, [the Norwegian Constitution](#) was extensively revised, primarily to strengthen the protection of human rights in the Constitution. The principle of equality and the prohibition against discrimination is now laid down in Article 98 of the Constitution, which reads as follows (unofficial English translation): "All people are equal under the law. No human being must be subject to unfair or disproportionate differential treatment."

[The Anti-Discrimination and Accessibility Act](#) protects against discrimination based on disability.¹⁴ The basis for discrimination covers physical, mental and cognitive disabilities. Public authorities, employers and employer organisations are subject to activity and reporting obligations. Direct and indirect discrimination based on disability are prohibited. However, the Act accommodates the use of positive differential treatment. Differential treatment is permitted if such treatment has a legitimate objective, is necessary to achieve this objective, and does not have a disproportionately negative effect on the person involved.¹⁵

The Anti-Discrimination and Accessibility Act imposes a duty to ensure both universal design (general accommodation) and individual accommodation. The duty to ensure universal design and individual accommodation is subject to considerations of disproportionate burden.¹⁶ Universal design is also one of the stated objectives of [the Planning and Building Act](#), prescribing the general objectives for planning and building matters. Universal design in other areas, such as transport and communication, is regulated by sector legislation.¹⁷ The Anti-Discrimination and Accessibility Act is enforced by [the Equality and Anti-Discrimination Ombudsman and the Norwegian Equality Tribunal](#).¹⁸

Specific legislation with regard to political rights and participation

The Act relating to a Municipal or County Council Committee or Other Representation Scheme for Persons with Disabilities, etc.¹⁹ requires municipal or county authorities to ensure that persons with disabilities are assured open, broad-based and accessible participation in work on matters of particular importance to persons with disabilities. This applies to physical access and other initiatives to counter discrimination based on disability. The Act requires that municipalities establish advisory councils or other representation schemes for

¹⁴ Ref. sections 5 and 8.

¹⁵ Ref. section 7.

¹⁶ Ref. section 13.

¹⁷ The Norwegian Government has issued an Action Plan for Universal Design for 2015-2019:

<https://www.regjeringen.no/contentassets/48ed7783842b410881a7da36ab530c72/no/pdfs/regjeringens-handlingsplan-uu.pdf>

¹⁸ More information about the Equality and Anti-Discrimination Ombud: <http://www.ido.no/en/> and the Norwegian Equality Tribunal: <http://www.diskrimineringsnemnda.no/wips/85307320/>

¹⁹ (Unfortunately only available in Norwegian) [Lov om råd eller anna representasjonsordning i kommunar og fylkeskommunar for menneske med nedsatt funksjonsevne mv.](#)

persons with disabilities to ensure that persons with disabilities are heard. These advisory councils shall receive information before decisions are made and their recommendations shall be included in the case documents of the municipal authority which makes the final decision. The advisory councils shall also prepare an annual report to the municipal authorities.

Legislative changes since 2015

The Norwegian Parliament has not replied to Request 2956. However, the Government is currently preparing a new Gender Equality and Anti-Discrimination Act covering all discrimination grounds. A hearing document was issued in 2015 and the deadline for comments was 22 January 2016. The Ministry of Children and Equality is currently working on following-up the comments and preparing a bill/ proposition to the Parliament.²⁰

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

A new Guardianship Act entered into force in 2013.²¹ One of the purposes of the new Act was to bring Norwegian law in accordance with Article 12 in the UN Convention of the Rights of Persons with Disabilities. The Guardianship Act governs three different measures; power of attorney, right of representation and individually tailored guardianship.

The majority of individually tailored guardianships imply no restrictions on the legal capacity to act.²² Partial restrictions on a person's legal capacity to act must be decided by the district court,²³ can only occur when it is absolutely necessary, and must be limited in scope to the areas in life where it is required. It can also be limited in time based on an individual assessment.²⁴ In any case, guardianship cannot include the right to vote according to section 21 in the Guardianship Act – without statutory provision. According to the Ministry of Local Government and Modernisation, there are at present no such provisions in the Election Act,²⁵ and to our knowledge, not in other Acts either. This means that even though a person is under guardianship, the person still has the right to vote as long as he/she fulfils the general criteria in the Election Act sections 2-1 and 2-2.²⁶

Section 50 in the Norwegian Constitution states that rules may be laid down by law concerning the right to vote of persons otherwise entitled to vote who on election day are manifestly suffering from a seriously weakened mental state or reduced level of consciousness. However, according to the Ministry of Local Government and Modernisation, no such rules are laid down in the Election Act, and to our knowledge, not in other relevant legislation either. The main rule is that everyone eligible to vote, is also eligible for election.²⁷

3. How many members of parliament have declared some form of disability?

Members of the Norwegian Parliament are not required to declare whether they have some form of disability. However, the Parliament's Occupational Health Service, in cooperation with the Building Development Section, will help facilitate good individual working conditions if needed.

From 2009 to 2013 a vara-representative who used a wheelchair, Tove Linnea Brandvik, needed access to the Plenary room, and her seat was altered accordingly:

<http://www.nrk.no/norge/storingsrepresentant-i-rullestol-1.517176>

4. How many persons with disabilities hold ministerial positions?

²⁰ More information (Unfortunately in Norwegian only): <https://www.regjeringen.no/no/dokumenter/horing--forslag-til-felles-likestillings-og-diskrimineringslov/id2458435/>

²¹ The Guardianship Act No. 9 of 26 March 2010 (Unfortunately only available in Norwegian): [Lov om vergemål \(vergemålsloven\)](#).

²² Ref. the Guardianship Act sections 20 and 21.

²³ Ref. the Guardianship Act section 68.

²⁴ Ref. the Guardianship Act sections 21 and 22.

²⁵ The Representation of the People Act No. 57 of 28 June 2002 (The Election Act) (Unfortunately only available in Norwegian): <https://lovdata.no/dokument/NL/lov/2002-06-28-57?q=valglov>

However, the Norwegian Ministry of Local Government and Modernisation has issued an article regarding the main features of the Norwegian Electoral System, which is available here: <https://www.regjeringen.no/en/portal/election-portal/the-norwegian-electoral-system/id456636/>

²⁶ Qualified to vote at parliamentary elections is any Norwegian national who reaches the age of 18 by the end of the year of election, and who has at some time been registered at the Population Registry as resident in Norway. Qualified to vote at local government elections is any person who is entitled to vote at parliamentary elections. In addition Nordic nationals (Sweden, Iceland, Denmark, Finland) are qualified to vote if they were registered as resident in Norway no later than 30 June in the year of election. Other foreign nationals are qualified to vote if they have been registered at the Population Registry as resident in Norway for a continuous period of three years immediately prior to Election Day.

²⁷ Ref. the Election Act section 3-1 first paragraph.

There are no public records available on how many persons with disabilities has held ministerial positions. However, Guro Fjellanger, who was Norway's Minister of Environment from 1997 to 2000 had spina bifida and had to use crutches:

<http://www.dagbladet.no/nyheter/2007/10/28/516444.html>

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Access to polling stations

The Election Act section 9-3 sets some requirements for premises used as polling stations. They must both be suitable for registering votes and accessible for voters. Voters must be able to enter polling stations without assistance. Alternative premises must only be used in the case of "special reasons". A decision to use alternative premises must be based on a rigorous assessment. The Anti-Discrimination and Accessibility Act section 13 also requires the election authorities to ensure accessibility for all, irrespective of functional ability.

Section 9-5 of the Election Act states that voters may ask the polling committee to provide any necessary assistance in the process of voting. Voters with serious mental or physical disability may themselves choose a helper among the persons who are present at the polling station. The polling committee shall draw the helper's attention to the fact that he or she is under a duty of secrecy. If a voter is unable to go inside the polling station, the person in question may give his or her vote to two returning officers immediately outside the polling station, according to section 9-6 in the Election Act.

The Election Regulation²⁸ sections 26 and 30 also state that polling stations must be accessible for all voters. Blind and visually impaired voters must be able to vote without asking for assistance.

Votes can be cast in advance in healthcare institutions, and in homes that are connected to these institutions, according to section 8-3 in the Election Act and section 25 in the Regulation. Voters who are in the realm, with the exemption of Svalbard and Jan Mayen, and who by reason of infirmity or disability are unable to cast their vote at the polling station or alternative premises, may on application to the Electoral Committee cast an advance vote in the place where they are. The Electoral Committee itself lays down the date by which such application must have been received by the municipal authority. The closing date must be set at a time between Tuesday and Friday in the last week before the election.²⁹

In a survey in 2011, just as many persons with disabilities as other persons, stated that they had voted at the last general election.³⁰ In 2013, 12 Norwegian municipalities tested online voting.³¹ The Ministry of Local Government and Modernisation was in charge of this pilot-project.

Electoral material

Official information on elections is available on the website www.valg.no. This website is adapted with HTML coding, text alternatives for images/illustrations, and with options for enlarging text and having text read out loud. Brochures are prepared with large text and on matt paper. Information films are provided with voiceover narration and subtitles.³²

Voting equipment and material that meet universal design requirements can be ordered by the municipalities.³³ The Norwegian Association of the Blind and Partially Sighted and other user groups have taken part in testing the equipment. The voting equipment includes election booths, ballot boxes, signage programmes and a new type of ballot paper. Perhaps most importantly, election booths can now be used by everyone, including wheelchair users. In addition, guidelines and subsidy schemes have been established in order to facilitate participation in elections for people with various types of disabilities and to increase knowledge about voting.³⁴

²⁸ (Unfortunately only available in Norwegian) FOR-2003-01-02-5 Valgforskriften <https://lovdata.no/SF/forskrift/2003-01-02-5>

²⁹ The Election Act section 8-3 no. (6)

³⁰ SSB, Levekårsundersøkelsen SILC 2011.

http://www.bufdir.no/Statistikk_og_analyse/Nedsatt_funksjonsevne/Deltakelse_og_fritid/Organisasjonsliv_og_politisk_del_takelse/

³¹ More information about the project (in Norwegian) <https://www.regjeringen.no/no/dokumentarkiv/stoltenberg-ii/krd/tema-og-redaksjonelt-innhold/kampanjesider/e-valg-2011-prosjektet/id597658/>

³² Reference is made to the Initial report of Norway to the Committee on the Rights of Persons with Disabilities 2015 (CRPD/C/NOR/1), page 39.

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fNOR%2f1&Lang=en

³³ www.valgutstyr.no

³⁴ Ref. the Initial report of Norway to the Committee on the Rights of Persons with Disabilities 2015 (CRPD/C/NOR/1),

Participation in public and political life

According to section 14 in the Anti-Discrimination and Accessibility Act, the general rule is that new information and technology (ICT) solutions shall be universally designed. Both private and public undertakings, associations and organisations must comply with [the Regulation for Universal Design of Information and Communication Technology Solutions](#).

An electronic word list, [Ordbanken](#), has been developed, containing around 1,000 simply defined words grouped into 11 key subject areas in society. Ordbanken serves as an aid for people with disabilities and for others involved in preparing and publishing information.

[Klar Tale](#) is an easy-to-read weekly newspaper for persons with language and reading difficulties. The use of enlarged text and simple language makes the newspaper easier to read than others. Klar Tale is published in print and Braille editions and as a talking newspaper in CD and podcast formats. The Klar Tale Foundation receives public funding for operating the newspaper.

[The Delta Centre](#), which is a part of the Norwegian Directorate for Children, Youth and Family Affairs, supports various social actors in their work on universal design to enable persons with disabilities to participate in society on equal terms with others.

The Directorate for Children, Youth and Family Affairs has published an easy to-read version of the UN Convention on the Rights of Persons with Disabilities for persons with intellectual disabilities. The purpose of the [booklet](#) is to make it easier for persons with intellectual disabilities to learn about their rights.

Relevant Ministries, such as the Ministry of Children and Equality, regularly invite non-governmental organisations working for the rights of persons with disabilities to give input to the state budget process. The Government also includes these organisations in public hearings of new legislative proposals relevant to their members.³⁵

27. POLAND / POLOGNE

1. Does your country have specific legislation with regard to the political rights and participations of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Persons with disabilities, if they were not declared legally incapacitated, enjoy all political rights granted to the citizens of Poland. The Electoral Code includes a number of provisions facilitating the participation of persons with disabilities in elections. Within last year, there have been no significant changes to the solutions facilitating the participation of persons with disabilities in elections. The description of solutions is provided in the answer to the ECPRD question No 2956.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Persons who, by a final judgment of a court, have been subjected to legal incapacitation or deprived of public or electoral rights, have no right to vote. Legal incapacitation is not declared for life. The court may repeal legal incapacitation, if the reasons for it cease to exist.

3. How many members of parliament have declared some form of disability?

Nine members of parliament out of 560 declare having a disability certificate.

4. How many persons with disabilities hold ministerial positions?

Currently the number of persons (from the ministries which provided an answer) who declared having a disability certificate and hold the position of a minister, a secretary or undersecretary of state amounts to one.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life. Including in political parties, non-governmental organisations and

page 54.

³⁵ White paper, Meld. St. 45 (2013-2014), section 5.4.5 page 40.

<https://www.regjeringen.no/contentassets/41a94b47679f477086d3f537d401d50a/no/pdfs/stm201220130045000dddpdfs.pdf>

associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to read versions, braille, subtitles, etc.)?

In 1997, a resolution of the Sejm entitled “Charter of Persons with Disabilities” entered into force. It imposes an obligation on public authorities to take actions aimed at implementing the right of persons with disabilities to lead an independent and active life and prohibits their discrimination. The rights listed in the Charter include:

- right to full participation in public, social, cultural, artistic and sport life, as well as in recreation and tourism, according to their interests and needs;
- right to having autonomous representation of their own community and consulting with it any draft legislation concerning people with disabilities.

The government submits to the Sejm, on an annual basis, the information about the actions taken in order to implement the provisions of “Charter of Persons with Disabilities”.

Persons with disabilities are members of advisory teams and bodies of the public administration, including:

- the National Consultation Council for Disabled Persons – an advisory body to the Government Plenipotentiary for Disabled People;
- the Polish Council of Sign Language – an advisory body to the Minister of Family, Labour and Social Policy;
- the Sports Council of the Disabled – an advisory body to the Minister of Sport and Tourism.

The Commissioner for Human Rights appointed a team for people with disabilities which deals also with the participation of people with disabilities in public life and their political activity (among others the practical facilitation of their participation in elections).

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Polish electoral law contains several solutions aimed at facilitating the participation in elections of persons with disabilities. All of the are regulated in provisions of the Act of 5th January 2011 (Dziennik Ustaw of 2011, no. 21, item 112 with amendments). They look as follows:

- a) proxy voting (part I, chapter 7 of the Electoral Code) – available only to voters with a significant or moderate degree of disability within the meaning of the Act of 27th August 1997 on Vocational and Social Rehabilitation and Employment of People with Disabilities (consolidated text in Dziennik Ustaw of 2010, no. 214, item 1407, with amendments), as well to elderly persons (at least 75 years old on the day of elections),
- b) the so-called electoral assistance (Article 53 of the Electoral Code) – “A disabled voter, upon request, may be assisted in voting by another person who is not a member of a voting circuit electoral commission or a poll observer authorised by the candidates”.
- c) ballot papers in Braille print (Article 40a of the Electoral Code),
- d) polling stations accessible to persons with disabilities (Article 16 para. 1 subpara. 3 of the Electoral),
- e) the duty to inform persons with disabilities “about elections” (part I, chapter 5a of the Electoral) – such an information includes e.g. addresses of nearby polling stations accessible to persons with disabilities and details concerning forms of voting available to such persons.

Formerly also postal voting could have been classified as a legal tool aimed at facilitating the participation in elections of persons with disabilities. However since 2014 postal voting is available to all voters, not only to ones with disabilities.

Apart from the above-mentioned legal solutions, on the day of elections some local governments and NGOs organise transport of voters with disabilities to polling stations.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

28. PORTUGAL

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

There is no specific legislation regarding the political rights and participation of persons with disabilities. Please refer to our answer to ECPRD Request n.º 2956, which remains valid.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The political rights of persons with disabilities are granted by the Portuguese Constitution. As per article 71 of the Constitution:

Article 71 (Disabled citizens)

1. *Citizens with physical or mental disabilities fully enjoy the rights and are subject to the duties enshrined in the Constitution, save for the exercise or fulfilment of those for which their condition renders them incapable.*
2. *The state undertakes to implement a national policy for the prevention of disability and the treatment, rehabilitation and integration of disabled citizens and the provision of support to their families, to educate society in such a way as to make it aware of the duties of respect and solidarity towards them, and to undertake the charge of ensuring that their rights are effectively fulfilled, without prejudice to the rights and duties of their parents or guardians.*
3. *The state shall support disabled citizens' organisations.*

Furthermore, electoral capacity in the Portuguese legal system is not linked to ability/disability. Regulations vary depending on the election at stake, but, for instance, in parliamentary elections, all Portuguese nationals, aged over 18 are entitled to vote, provided that they are registered in the electoral roll and that they have not been judicially deprived of their voting rights, or declared legally incapable (because of mental illness).

3. How many members of parliament have declared some form of disability?

There is no such declaration. However, in this Legislature, there is one MP in wheelchair. Please, see our answer to ECPRD Request n.º 3098 for more information.

4. How many persons with disabilities hold ministerial positions?

To our knowledge, one: Ms. [Ana Sofia Antunes](#), who is the Secretary of State of Inclusion of Persons with Disabilities, and who is blind.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

In the elections held in recent years, National Election Commission and the National Institute for Rehabilitation, two public services, together with a range of non-governmental organisations that represent several areas of disability (locomotor, auditory, visual and intellectual disabilities), jointly promoted an initiative called "Accessible Election". The goal was to promote the right to vote of citizens with some form of disability. To this end, an easy to read flyer and a video with subtitles and sign language interpretation with general information on the election were prepared.

In addition, electoral campaigning official videos are broadcasted with sign language.

Regarding access to locations where polling stations operate, the different electoral laws establish that polling stations must assemble in public buildings, preferably schools or seats of municipal councils or parish councils that offer the indispensable conditions in terms of capacity, security and access. The National Election Commission has repeatedly decided that the issue of access for all citizens to the buildings in which polling stations operate, particularly for electors with physical disabilities and citizens with reduced mobility, should receive special attention from decision-makers, and is a major aspect in the act of choosing the buildings to be used. For these citizens, access can be guaranteed, at least, by installing mobile means that remove architectural obstacles, and it is recommended that municipal authorities take the measures necessary to ease access to polling stations when establishing the places where voting will take place.

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

Direct, secret and periodic suffrage is the general rule for the appointment of the officeholders of the elected bodies that exercise sovereignty, elected bodies of the autonomous regions and elected local government bodies, in accordance with Article 113(1) of the [Constitution of the Portuguese Republic](#). Currently, the Portuguese legal system has six different electoral laws, one for each body to be elected³⁶:

³⁶ The elections to local government bodies, in which three different organs are elected, are excepted.

- President of the Republic Electoral Law (LEPR), approved by Executive Law no. 319-A/76, of 3 May 1976 ([consolidated version](#));
- Assembly of the Republic Electoral Law (LEAR), approved by Law no. 14/79, of 16 May 1979 ([consolidated version](#));
- Legislative Assembly of the Autonomous Region of the Azores Electoral Law (LEALRAA), approved by Law no. 267/80, of 8 August 1980 ([consolidated version](#));
- Legislative Assembly of the Autonomous Region of Madeira Electoral Law (LEALRAM), approved by Organisational Law no. 1/2006, of 13 February 2006 ([consolidated version](#));
- Local Authority Bodies Electoral Law (LEOAL), approved by Organisational Law no. 1/2001, of 14 August 2001 ([consolidated version](#));
- Electoral Law for the European Parliament (LEPE), approved by Law no. 14/87, of 29 April 1987 ([consolidated version](#))³⁷.

Matters related to the right to vote of electors who are affected by an obvious illness or physical disability are established in similar ways in all electoral laws.

The national legal system establishes that the right to suffrage is exercised in person by the elector, and no form of representation or delegation is permitted, although there are exceptions for electors who have an obvious illness or physical disability (Article 70(3) of the LEPR, Article 79(2) of the LEAR, Article 76(2) of the LEALRAA, Article 80(2) of the LEALRAM, Article 100(2) of the LEOAL). An exception to the principle of voting in person is therefore established.

An elector who is affected by an obvious illness or physical disability and whose inability to undertake the acts described in the electoral law is verified by the board of officers shall vote while accompanied by another elector of his choice, who shall ensure that his vote is cast as he intends it to be and who shall be bound to absolute secrecy (Article 74(1) of the LEPR, Article 97(1) of the LEAR, Article 99(1) of the LEALRAA, Article 88(1) of the LEALRAM, Article 116(1) of the LEOAL).

If the board of officers decides that the obviousness of the illness or physical disability is not verified, they shall require presentation to them, upon the act of voting, of a certificate confirming that it is impossible for the elector to undertake such acts, to be issued by the doctor³⁸ who exercises public health authority powers in the municipality's area and to be authenticated with the respective department's seal (Article 74(2) of the LEPR, Article 97(2) of the LEAR, Article 99(2) of the LEALRAA, Article 88(2) of the LEALRAM, Article 116(2) of the LEOAL).

For the purposes of issuing the certificate, on election day health centres must remain open during the period in which polling stations are operating (Article 74(3) of the LEPR, Article 97(3) of the LEAR, Article 99(3) of the LEALRAA, Article 88(3) of the LEALRAM, Article 116(b) of the LEOAL).

Without prejudice to the board of officers' decision on the admissibility of a vote, any of its members or any delegate for a political party or coalition may make a written protest (Article 74(4) of the LEPR, Article 97(4) of the LEAR, Article 99(4) of the LEALRAA, Article 88(4) of the LEALRAM, Article 88(1)(d) of the LEOAL).

The LEALRAM establishes that protests shall be recorded in the minutes, mentioning the voting numbers of the citizens involved and, if relevant, the certificate or medical note mentioned is attached (Article 88(4) of the LEALRAM).

The sanctions applied as regards this subject are different in each law. Therefore, anyone who accompanies an elector who is affected by an obvious illness or physical disability to the act of voting and, maliciously, does not faithfully ensure that the vote is cast as the elector intends it to be shall be punished by:

- A prison term of between two and eight years (Article 138 of the LEPR);
- A prison term of between six months and two years or a fine of between €24.94 and €99.76 (Article 150 of the LEAR);
- A prison term of between six months and two years or a fine of between €500 and €2000 (Article 147 of the LEALRAA and Article 151 of the LEALRAM);
- A prison term of up to one year or a fine of up to one hundred and twenty days (Article 190 of the LEOAL).
- The LEOAL also establishes, in Article 201, that any doctor who falsely certifies an illness or physical disability shall be punished by a prison term of up to two years or a fine of up to two hundred and forty days.

³⁷ Under the terms of Article 1 of the Electoral Law for the European Parliament, *in Portugal, the election of Members of the European Parliament is ruled by the present law, the applicable Community rules and, whenever provisions are lacking therein or when such rules refer to national legislation, by the rules on the election of Members of the Assembly of the Republic with the necessary adaptations*. As regards the act of voting by electors who are affected by an obvious illness or physical disability, the Assembly of the Republic Electoral Law shall apply subsidiarily.

³⁸ In the case of elections to the Legislative Assembly of the Autonomous Region of Madeira, this responsibility is held by the health delegate.

The National Election Commission established a partnership with the National Institute for Rehabilitation (INR, I.P.) and a range of non-governmental organisations that represent several areas of disability (locomotor, auditory, visual and intellectual disabilities) with a view to encouraging the participation of citizens with disabilities in political life and, especially, in the elections to the Assembly of the Republic that took place on 4 October 2015. Within this scope, the following information materials were prepared:

- [Informative video.](#)

Regarding access to locations where polling stations operate, the different electoral laws establish that polling stations must assemble in public buildings, preferably schools or seats of municipal councils or parish councils that offer the indispensable conditions in terms of capacity, security and access (Article 33(1) of the LEPR, Article 42(1) of the LEAR, Article 43(1) of the LEALRAA, Article 45(1) of the LEALRAM, Article 69(1) of the LEOAL).

The National Election Commission has repeatedly decided that the issue of access for all citizens to the buildings in which polling stations operate, particularly for electors with physical disabilities and citizens with reduced mobility, should receive special attention from decision-makers, and is a major aspect in the act of choosing the buildings to be used. For these citizens, access can be guaranteed, at least, by installing mobile means that remove architectural obstacles, and it is recommended that municipal authorities take the measures necessary to ease access to polling stations when establishing the places where voting will take place.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No.

29. ROMANIA / ROUMANIE

Replies sent by the Chamber of Deputies

There have not been any legislative changes since the answer to Request 2956.

- According to Constitution of Romania:

"Art.36 (2) The mentally deficient or alienated persons, laid under interdiction, as well as the persons disenfranchised by a final decision of the court cannot vote."

Art. 37 (1) The citizens having the right to vote according to art 16 par (3) (Public civil or military offices and titles can be occupied, according to the law, by the persons with Romanian citizenship and the domicile in the country. The Romanian State guarantees equal opportunities between men and women for occupying these offices and titles) have the right to be elected if they are not forbidden to associate in political parties, according to art. 40, par (3) (The following cannot be members of political parties: judges of the Constitutional Court, ombudsmen, magistrates, active members of the military, policemen and other categories established by organic law.

(2) Candidates have to be of at least 23 years of age until the day of elections, inclusively, in order to be elected to the Chamber of Deputies or bodies of public local administration, and at least 33 to be elected to the Senate, and at least 35 to be elected as President of Romania.

Art. 38

Under the conditions of Romania's accession to the European Union, the Romanian citizens have the right to elect and to be elected to the European Parliament. "

- According to Law 208/20 July 2015 on the election of the Senate and Chamber of Deputies and Organization and Functioning of the Standing Electoral Authority:

"Art. 2

(1) Parliamentary elections in Romania are deployed by observing the universal, equal, direct, and freely expressed character of the vote, according to the conditions of the present law.

(2) Romanian citizens have the right to vote and to be elected, regardless of race, sex, nationality, ethnic origins, spoken language, religion, political opinion, wealth or social origins, according to the Constitution and legislation in force.

(5) Do not have the right to vote :

a) retarded or mental patients, under interdiction;

b) people who have been forbidden the right to vote, for the duration established by final judicial decision."

- According to Law 115/19 may 2015 on the Election of Local Public Authorities:

"Art. 2

(1)Romanian citizens equally exercise the electoral rights, without privileges and discriminations.

Art. 6

(1) Cannot elect:

a) retarded or mental patients, under interdiction;

b) people who have been forbidden the right to vote, for the duration established by final judicial decision.”

3. N/A

4. N/A

Replies sent by the Senate

There have not been any legislative changes since the answer to Request 2956.

According to the Constitution of Romania, modified and completed by the Law for the Revision of the Constitution nr. [429/2003](#):

Art. 36: The right to vote

(1) The citizens have the right to vote since the age of 18, having become of age until the day of elections, inclusively.

(2) The following do not have the right to vote: the mentally deficient or alienated, under interdiction, persons sentenced by final decision to loss of electoral rights.

Art. 37: The right to be elected

(1) The citizens having the right to vote according to art 16 par (3) (Public civil or military offices and titles can be occupied, according to the law, by the persons with Romanian citizenship and the domicile in the country. The Romanian State guarantees equal opportunities between men and women for occupying these offices and titles) have the right to be elected if they are not forbidden to associate in political parties, according to art. 40, par (3) (The following cannot be members of political parties: judges of the Constitutional Court, ombudsmen, magistrates, active members of the military, policemen and other categories established by organic law.

(2) Candidates have to be of at least 23 years of age until the day of elections, inclusively, in order to be elected to the Chamber of Deputies or bodies of public local administration, and at least 33 to be elected to the Senate, and at least 35 to be elected as President of Romania.

Art. 38: The right to be elected to the European Parliament

Under the conditions of Romania's accession to the European Union, the Romanian citizens have the right to elect and to be elected to the European Parliament.

3. n/a

4. n/a

Replies of the Chamber of Deputies to ECPRD request 2956

According to *Constitution of Romania*:

"Art.36 (2) The mentally deficient or alienated persons, laid under interdiction, as well as the persons disenfranchised by a final decision of the court cannot vote."

According to *Law 208/20 July 2015 on the election of the Senate and Chamber of Deputies and Organization and Functioning of the Standing Electoral Authority*:

"Art. 2 (1) Parliamentary elections in Romania are deployed by observing the universal, equal, direct, and freely expressed character of the vote, according to the conditions of the present law.

(2) Romanian citizens have the right to vote and to be elected, regardless of race, sex, nationality, ethnic origins, spoken language, religion, political opinion, wealth or social origins, according to the Constitution and legislation in force.

(5) Do not have the right to vote :

a) retarded or mental patients, under interdiction;

b) people who have been forbidden the right to vote, for the duration established by final judicial decision.”

According to *Law 115/19 may 2015 on the Election of Local Public Authorities*:

"Art. 2 (1) Romanian citizens equally exercise the electoral rights, without privileges and discriminations.

Art. 6 (1) Cannot elect:

a) retarded or mental patients, under interdiction;

b) people who have been forbidden the right to vote, for the duration established by final judicial decision.”

Replies of the Senate to ECPRD request 2956

According to Law 208/20 July 2015 on the election of the Senate and Chamber of Deputies and Organization and Functioning of the Standing Electoral Authority, and Law 115/19 May 2015 on the Election of Local Public Authorities:

Law 208:

“Art. 2 (1) Parliamentary elections in Romania are deployed by observing the universal, equal, direct, and freely expressed character of the vote, according to the conditions of the present law.

(2) Romanian citizens have the right to vote and to be elected, regardless of race, sex, nationality, ethnic origins, spoken language, religion, political opinion, wealth or social origins, according to the Constitution and legislation in force.

(5) Do not have the right to vote :

a) retarded or mental patients, under interdiction;

b) people who have been forbidden the right to vote, for the duration established by final judicial decision.”

Law 115;

“Art. 2 (1) Romanian citizens equally exercise the electoral rights, without privileges and discriminations.

Art. 6 (1) Cannot elect:

a) retarded or mental patients, under interdiction;

b) people who have been forbidden the right to vote, for the duration established by final judicial decision.”

Both laws are in Romanian only.

30. RUSSIAN FEDERATION / FEDERATION DE RUSSIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Disabled have equal to other Russian citizen's rights to participate in the administration of state affairs both directly and through their representatives. Trade unions and public associations operate freely. Support is provided to organizations of disabled that represent their interests on local, regional and municipal levels.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Limitations of political rights are set only by law and contemplate inter alia a prohibition to elect or be elected for those, who have been found by court legally incapable.

3.4. How many members of parliament have declared some form of disability? How many persons with disabilities hold ministerial positions?

N/A

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Extra measures are undertaken to provide the disabled with equal conditions for enjoyment of electoral rights including accessibility of electoral information, placed at the polling stations. Accessibility is provided according to the needs of people who are visually or hearing impaired and those, who have orthopedic injuries, including users of wheelchairs.

If a candidate not capable to fill in an application or other documents without assistance is nominated, he or she can make use of such help from another person.

For visually impaired people polling stations must be equipped with special stands with information, printed in a large font and (or) in braille. Special templates are provided for the disabled to help them fill in the voting papers on their own.

Also there is an option for voters, who are incapable of putting their signatures in acknowledgement of receiving a ballot, to get assistance from other voters not only inside the polling station, but even outside.

31. SERBIA / SERBIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The Republic of Serbia has ratified the CRPD - Convention on the Rights of Persons with Disabilities and CRPD-OP - Optional protocol to the Convention on the Rights of Persons with Disabilities in 2009 year. The Law on the Prevention of Discrimination of Persons with Disabilities ("Official Gazette of RS", No. 33/06) and the Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of RS, No. 36/2009, 32/2013) are based on the respect for human rights and dignity of persons with disabilities and regulate the inclusion of persons with disabilities in all spheres of social life on an equal basis.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The Article 37, par. 1-2 of the Constitution of the Republic of Serbia stipulates: "Everyone shall have legal capacity. Upon becoming of age all persons shall become capable of deciding independently about their rights and obligations. A person becomes of age after turning 18." The Article 52, par1, of the Constitution stipulates: "Every citizen of age and working ability of the Republic of Serbia shall have the right to vote and be elected." The legal capacity is estimated only in the court. The legal possibility to restore legal capacity exists, however, it means that no longer exist reasons why there has been a deprivation of legal capacity.

3. How many members of parliament have declared some form of disability?

There is not precise data.

4. How many persons with disabilities hold ministerial positions?

In the last government there were no persons with disabilities on ministerial position.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Ministry of Labour, Employment and Social Policy - Sector for Protection of Persons with Disabilities and the National Organization of Persons with Disabilities of Serbia promotes the participation of persons with disabilities in public and political life. In December 2015, the National Organisation of Persons with Disabilities of Serbia with the support of the US Agency for International Development - USAID has promoted the project "Strengthening the Political Participation of Persons with Disabilities in Serbia".

The campaign materials and/or electoral materials are systematically accessible to persons with disabilities. In accordance with instructions issued by the Republic Electoral Commission, broadcasters are obliged to ensure that citizens with impaired hearing shall be properly informed during the election campaigns. TV programs related to election campaigns contain reporting in sign language. Also, persons with disabilities may vote at home in the presence of members of the electoral committee of their polling place.

32. SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Information provided in our reply to ECPRD request no. 2956 is still valid. No legislative changes have been adopted in this matter since 2015. However, further protection and promotion of the rights of persons with disabilities have been ensured by the Commissioner for Persons with Disabilities, a new institution, which was established by the Act no. 176/2015 Coll. on Children's Commissioner and Commissioner for Persons with Disabilities as amended. The role of the Commissioner for Persons with Disabilities as stipulated in the Act is, inter alia, to consider from his/her own initiative or after receiving complain the observance of the rights of persons with disabilities in the Slovak Republic, to monitor the observance of the rights of persons with disabilities, and to promote the rights of persons with disabilities. Therefore, any violation of the right to be elected or the right to vote for persons with disabilities could be reviewed also by the Commissioner.

In general, the Slovak legal system does not include any specific legislation with regard to the political rights and participation of persons with disabilities. However, the legal framework governing the parliamentary

elections, comprising the Act No. 180/2014 Coll. on the Conditions of the Right to Vote as amended, and Act No. 181/2014 Coll. on Election Campaigns as amended, provides assistance for people with disabilities.

Pursuant to Section 24 paragraph 6 of the Act No. 180/2014 Coll. on the Conditions of the Right to Vote, a voter who is unable to cast a vote due to a disability or any inability to read and write, and notify the precinct electoral commission about this fact, has a right to be assisted by another eligible person (provided that the latter does not serve as a member of precinct electoral commission) who casts the vote according to the instructions of the disabled person. Both persons before entering the polling booth shall be instructed by a member of the precinct electoral commission on how to vote and shall be informed that they are subjects of a criminal offense in case of defeating the preparation and conduct of the election and referendum.

According to Section 24 paragraph 7 of above mentioned Act due to serious reasons, in particular of health, a voter may request on his/her own or through another person on the Election Day the precinct electoral commission to vote outside the polling station (the option to cast a vote into a “portable” ballot box). This can be done only within the electoral district for which the commission has been established. In such case, the precinct electoral commission shall send to the voter two of its members together with the portable ballot box, envelopes and ballot papers. In order to maintain the secrecy of the vote delegated commission members shall ensure that the voter sign a document stating that he/she has lifted the ballot papers.

If the voter is unable to do this, a delegated member of the commission shall note this fact in the electoral register of voters applying to those voters who requested to vote outside the polling station, which is attached to the overall electoral register. The voter's participation in voting shall be registered by the precinct electoral commission in each copy of the electoral register immediately after the two commission members sent with the portable ballot box have returned to the polling station.

Under Section 24 paragraph 8 of above mentioned act if the vote is to be cast in a hospital or similar institution, the institution shall agree on voting to a portable ballot box with respective precinct electoral commission. Pursuant to Section 24 paragraph 9 of above mentioned act a voter who is unable due to his/her disability to place the envelope into the ballot box may request that this is done by another eligible person (provided that the latter does not serve as a member of the precinct electoral commission).

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Yes, under Section 4 point c) and Section 6 point c) of the Act no. 180/2014 Coll. on the Conditions of the Right to Vote as amended, the impediment in exercising the right to vote and the right to be elected is deprivation of legal capacity. Pursuant to Section 9, paragraph 7 of this Act, public authorities, which decide on the civil status of persons or keep other records of voters are obliged to inform respective municipality, among others, about the deprivation of legal capacity

A person may be deprived legal capacity providing that he/she suffers from mental disease which is not of a temporary nature, and in consequence of which he/she is not able to undertake legal acts. A person may be limited legal capacity providing that he/she suffers from mental disease which is not of a temporary nature or due to excessive consumption of alcohol or narcotics or poisons is able to undertake only certain legal acts. Only court is entitled to rule on deprivation or limitation of legal capacity. Such court's decision shall also determine the extent of deprivation or limitation of legal capacity. In practice in most cases it is a list of actions in which the person is not entitled to act on behalf of himself/herself. The court may abolish or change the deprivation or limitation of legal capacity if the reasons, which led to such deprivation or limitation, has changed or disappeared (Section 10 paragraph 3 of the Civil Code).

3. How many members of parliament have declared some form of disability?

Currently, in the VII. parliamentary term of the National Council (2016 – 2020), there is one MP with a physical impairment.

4. How many persons with disabilities hold ministerial positions?

There is no person with a disability within current Government.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The National Programme for the Development of the Living Conditions of Persons with Disabilities 2014 – 2020 was approved in 2014 by means of Government resolution. It was drafted with the participation of a number of experts from different fields, ensuring compatibility between various planned actions. The Programme prescribes that the authorities have to consult with the organizations of persons with disabilities on all issues which affect them. The fundamental goal of this document is to ensure, through defined measures,

progress related to the protection of rights of persons with disabilities featuring the setting of exact dates, methods of implementation, responsibility and outcomes.

The National Programme for the Development of the Living Conditions of Persons with Disabilities 2014 – 2020 sets out to ensure that all election procedures, facilities, spaces and materials are easily accessible to persons with disabilities. This is to be achieved via three specific objectives: 1) enable persons with disabilities to vote by secret ballot in all elections and referendums; 2) recommend all political parties and independent candidates to ensure ease of access of their websites and information materials; 3) recommend the Slovak Television and Radio to provide hidden or open subtitles, sign language or voice commentaries to all election related broadcasts. The Ministry of Interior has been vested with the two former tasks while the latter one falls into competence of the Council of the Slovak Television and Radio.

In the last parliamentary elections in March 2016 visually impaired persons had at their disposal election materials (e.g. candidacy lists) in audio format or in Braille, although the ballot papers were not prepared in this manner.

Furthermore, the protection and promotion of the rights of persons with disabilities have been ensured by the Commissioner for Persons with Disabilities, a new institution, which was established by the Act no. 176/2015 Coll. on Children's Commissioner and Commissioner for Persons with Disabilities as amended. The role of the Commissioner for Persons with Disabilities as stipulated in the Act is, inter alia, to consider from his/her own initiative or after receiving complain the observance of the rights of persons with disabilities in the Slovak Republic, to monitor the observance of the rights of persons with disabilities, and to promote the rights of persons with disabilities. Therefore, any violation of the right to be elected or the right to vote for persons with disabilities could be reviewed also by the Commissioner.

Besides, the Committee for Persons with Disabilities attached to the Government Council for Human Rights, National Minorities and Gender Equality is active to perform the tasks in order to increase the level of support, protection and respect for the rights of persons with disabilities. The Committee, inter alia, monitors and evaluates the implementation of the National Programme for the Development of the Living Conditions of Persons with Disabilities 2014 – 2020.

Replies sent by the Senate to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

The legal framework governing the parliamentary elections comprises the Constitution, adopted in September 1992 as well Act No. 180/2014 Coll. on the Conditions of the Right to Vote and Act No. 181/2014 Coll. on Election Campaigns.

Pursuant to Section 24 paragraph 6 of the Act No. 180/2014 Coll. on the Conditions of the Right to Vote, a voter who is unable to cast a vote due to a disability or any inability to read and write, and notify the precinct electoral commission about this fact, has a right to be assisted by another eligible person (provided that the latter does not serve as a member of precinct electoral commission) who casts the vote according to the instructions of the disabled person. Both persons before entering the polling booth shall be instructed by a member of the precinct electoral commission on how to vote and shall be informed that they are subjects of a criminal offense in case of defeating the preparation and conduct of the election and referendum.

According to Section 24 paragraph 7 of above mentioned Act due to serious reasons, in particular of health, a voter may request on his/her own or through another person on the Election Day the precinct electoral commission to vote outside the polling station (the option to cast a vote into a "portable" ballot box). This can be done only within the electoral district for which the commission has been established. In such case, the precinct electoral commission shall send to the voter two of its members together with the portable ballot box, envelopes and ballot papers. In order to maintain the secrecy of the vote delegated commission members shall ensure that the voter sign a document stating that he/she has lifted the ballot papers.

If the voter is unable to do this, a delegated member of the commission shall note this fact in the electoral register of voters applying to those voters who requested to vote outside the polling station, which is attached to the overall electoral register. The voter's participation in voting shall be registered by the precinct electoral commission in each copy of the electoral register immediately after the two commission members sent with the portable ballot box have returned to the polling station.

Under Section 24 paragraph 8 of above mentioned act if the vote is to be casted in a hospital or similar institution, the institution shall agree on voting to a portable ballot box with respective precinct electoral commission.

Pursuant to Section 24 paragraph 9 of above mentioned act a voter who is unable due to his/her disability to place the envelope into the ballot box may request that this is done by another eligible person (provided that the latter does not serve as a member of the precinct electoral commission).

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

No, the election law does not provide mandatory quotas for people with disability on the party lists of political parties.

33. SLOVENIA / SLOVENIE

Replies sent by the National Council

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Our country does not have specific legislation with regard to the political rights and participation of persons with disabilities in the elections of National Councils members.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The right to be elected and the right to vote is linked to legal capacity, what means that a person who has been deprived of his legal capacity cannot exercise his active and passive voting right.

3. How many members of parliament have declared some form of disability?

No one of current members of the National Council has declared some form of disability. In the past the National Council had one MP with physical disabilities.

4. How many persons with disabilities hold ministerial positions?

N/A

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Further explanation is provided in the request ECPRD 3098.

Replies sent by the National Assembly

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

In 2008, Slovenia ratified the UN Convention on the Rights of Persons with Disabilities (Official Gazette of RS, No. 37/08), while in the Slovenian legislation the most significant laws in this field are the following two:

The Equalisation of Opportunities for Persons with Disabilities Act (Official Gazette of RS, Nos. 94/10, 50/14) which under Chapter 2 – Prohibition of Disability Discrimination stipulates as follows:

Article 6 (discrimination before state bodies, national and local self-government bodies, public authorities and services)

(1) Any discrimination based on disability in the procedures before state bodies, national and local self-government bodies, public authorities and providers of public service is prohibited.

(2) Discrimination before state bodies, national and local self-government bodies, public authorities and providers of public service includes in particular:

- *disrespecting and disregarding the rights of persons with disabilities as well as depriving them of or excluding them from their rights if such rights are granted, under equal conditions, to those who are not disabled,*

- *establishing specific conditions for considering and respecting the rights of persons with disabilities and granting such to persons with disabilities, unless such action is lawful and adequate considering the definition of discrimination,*
- *at a public servant's own discretion, disrespecting and disregarding the rights of persons with disabilities as well as depriving them of or excluding them from their rights as a result of the applicant's disability,*
- *public servants making the conduct of proceedings involving persons with disabilities as parties difficult, which prevents or impedes the exercise of the rights of persons with disabilities.*

Article 7 (equal participation in proceedings)

(1) Blind, visually impaired or deafblind persons have the right to submit documents and/or to be provided access to all documents of the proceedings before state bodies, national and local self-government bodies, public authorities and providers of public service in a form that is intelligible to them, while the latter must guarantee such right.

(2) The right from the preceding paragraph is guaranteed in a manner chosen by the blind, visually impaired or deafblind persons themselves, particularly with the adapted writing and reading techniques for the blind, visually impaired or deafblind such as Braille, enhanced black print, audio, and electronic format.

(3) State bodies, local self-government bodies, public authorities and providers of public service must guarantee the right specified in paragraph 1 of this article to a blind, visually impaired or deafblind person ex officio.

(4) The costs for the provision of documents in a form intelligible to the blind, visually impaired or deafblind, are covered by state bodies, local self-government bodies, public authorities and providers of public service from the budget of the Republic of Slovenia and must therefore be anticipated in the annual financial plans.

Article 14 (access to information)

Discrimination on grounds of disability also includes blocking prompt and equal access to information intended for the public, at no additional cost for the disabled, taking into account the principle of adequate and reasonable adjustment of formats, languages and technologies that are accessible to persons with different forms of disabilities.

The Act also provides for the acquisition of technical aids for persons with sensory impairments to overcome communication barriers and for greater access to information.

The National Assembly Elections Act (Official Gazette of RS, Nos. 44/92, 60/95, 70/00, 78/06) stipulates:

Article 47

A voter shall give his support by signature on a prescribed form. He shall sign the form in person before the competent body, which keeps records of the voting right, or at the competent local office.

People who during the period determined for the submission of lists of candidates are hospitalised, in care in retirement homes, institutions for people with disabilities and similar institutions, and persons serving a prison sentence may express their support so that their signature on the form is certified by a person duly authorised by the competent authority or legal person.

Persons with a registered permanent or temporary residence in the Republic of Slovenia but who for reasons of illness or disability cannot go to the competent authority in person and are not in institutions specified in paragraph 4 of this article, may express their support to a candidate or a list of candidates before a competent authority that visits this person in his/her home not later than six days prior to the expiry of the deadline for the submission of the lists of candidates.

Article 79a

The district electoral commission designates in the area of the district at least one polling station, which is accessible to persons with disabilities. Voters who wish to vote at such polling station must communicate their intention to the district electoral commission no later than three days before the voting day. At such polling station, the electoral commission may allow voting by means of adapted ballot papers and voting machines.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

Article 7(3) of the National Assembly Elections Act (chapter on voting rights) provides:

In proceedings for the withdrawal of legal capacity or for the extension of parental right over the age of maturity, the court decides separately on the withdrawal of the right to vote and to be elected.

In reply to the concerns expressed by the Office of the Ombudsman for Human Rights regarding the compliance of the above article with the provisions of the International Convention on the Rights of Persons with Disabilities, the Ministry of Public Administration (MPA) argued that »*the withdrawal of the right to vote under Article 7 of the National Assembly Elections Act is not automatic and it is on the court to decide in each*

case separately ... voting in elections has certain legal and practical consequences, and as any other legal action, it is valid only if the person who has performed it understands its significance and consequences. If such restriction of the right to vote was lifted and the persons who are not able to understand the significance, purpose and effect of the elections were enabled to exercise their active right to vote, there is a high probability that such persons would submit an invalid ballot paper since for submitting such, the voting instructions indicated on the ballot paper need to be understood and complied with. As other legal systems, also our electoral law provides for the principles of secret ballot and personal voting. The National Assembly Elections Act particularly emphasises that voters may vote in person and that no one can vote by proxy. Only in the event that a voter cannot vote in person because of a physical defect or illiteracy, they may be assisted in the voting by another person. This does not mean that the latter acts as their proxy, but he/she only helps to express the voter's will.

In the event of a possible lifting of restrictions on the right to vote, the question arises as to how to prevent potential abuse when a third party wished to influence the will of the above persons in exercising their right to vote. Persons with intellectual disabilities are in fact much more susceptible to various external influences. Restrictions on the right to vote that apply for persons with intellectual disabilities under the existing law are proportional and adequate and do not excessively interfere with the actual right to vote. The right to vote is not withdrawn automatically when legal capacity is withdrawn or parental right is extended, and it is on the court to decide in each case separately.« (opinion by the Ombudsman for Human Rights – the right to vote of persons with intellectual disabilities (16 July 2015)).

3. How many members of parliament have declared some form of disability?

None.

4. How many persons with disabilities hold ministerial positions?

None.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

In its instructions on how to adjust, in accordance with the law, the course of voting to persons with special needs, the National Electoral Commission suggests:

»Anyone who, due to physical infirmity because they are, for example, blind, without an arm, etc. or illiterate, could not vote as prescribed, has the right to be accompanied before the electoral committee by a person who will fill and submit the ballot paper instead of them, yet following their instructions. A decision thereon is taken by the electoral committee and entered in the record. If a polling station is not accessible by wheelchair, a voter may vote before the building that houses the polling station. A decision thereon is taken by the electoral committee and entered in the record. A voter who expresses the wish to vote by means of a template for the blind is handed over the template and explained how to use it.«

...

»If the district electoral commission informed the electoral committee that in the area covered by the polling station there are voters who are unable to make a personal appearance at the polling station due to illness, and if the electoral commission was informed that they wished to vote, the chairman of the electoral committee must appoint at least two committee members who pay a visit to such person's home and hand him/her the ballot paper. Along with the ballot paper, they also deliver an envelope. When the voter casts his/her vote, he/she folds the ballot paper, inserts it in the envelope, seals the envelope and hands it over to the members of the electoral committee.

If, because of physical disability, the voters cannot fill their ballot papers themselves, another person may fill the ballot paper instead of them, yet following their instructions; such person may not be a member of the electoral committee.«

According to the National Electoral Commission, about a third of the polling stations is accessible to persons with special needs, and the share of polling stations equipped with a voting machine is also increasing.

The Report on the implementation of the provisions of the Convention on the Rights of Persons with Disabilities drawn up by the Ministry of Foreign Affairs states that under the third objective of the Action Programme for Persons with Disabilities it is necessary to "ensure to the persons with disabilities access to the built environment, transport, information and communications." The measures which specifically relate to the participation of persons with disabilities in political and public life provide that it is necessary to:

- adapt or transform the documents relating to decision-making at state and local levels into an easily readable technique (e.g. documents relating to elections and documents relevant for the life of persons with intellectual disabilities),

- ensure the use Slovenian sign language for the deaf and the reading of subtitles and describing of events on screen for the blind, at least in the daily news, scientific and other educational television shows,
- ensure equal access to online information and public administration services to all citizens.

Persons with disabilities voluntarily and independently organise in disabled people's organisations, in which they – on their own and together with their legal representatives – establish, advocate and address their special needs and represent the interests of persons with special needs. The status, scope, financing and property of disability organisations are regulated by the Disabled People's Organisations Act. The Act also imposes an obligation for state bodies to consult and cooperate with disabled people's organisations in the formulation of national policies and measures to ensure equal opportunities and equal treatment of persons with special needs. The Act also defines the role of representative disabled people's organisations, which:

- represent persons with disabilities and their interests in the dialogue with authorities at the national and international level;
- propose, in accordance with regulations, representatives of persons with disabilities to the bodies of state and other authorities dealing with issues concerning persons with disabilities;
- propose or appoint representatives of persons with disabilities to the bodies of similar international organisations and associations;
- connect and coordinate their interests with other disabled people's organisations.

State bodies and other public institutions must provide the possibility of representing the interests and views of persons with special needs also to disabled people's organisations that are not representative organisations.

Sources:

National Electoral Commission: Voting by persons with disabilities and persons with special needs. Website: <http://www.dvk-rs.si/index.php/si/gnvapp/glasovanje/glasovanje-invalidov-in-oseb-s-posebnimi-potrebami> and Voting at home. Website: <http://www.dvk-rs.si/index.php/si/gnvapp/glasovanje/glasovanje-na-domu> (April 2016).

Secretariat-General of the Government of the Republic of Slovenia (phone call of 11 May 2016).

Ministry of Labour, Family, Social Affairs and Equal Opportunities, Directorate for Persons with Disabilities, War Veterans and Victims of War.

Commission for Public Office and Elections of the National Assembly of the Republic of Slovenia (reply of 6 May 2016).

Ministry of Foreign Affairs: Report on the implementation of the provisions of the Convention on the Rights of Persons with Disabilities.

34. SPAIN / ESPAGNE

Replies sent by the Congress of Deputies

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Spanish Constitution. Article 49 "The public authorities shall carry out a policy of preventive care, treatment, rehabilitation and integration of the physically, sensorially and mentally handicapped who shall be given the specialised care that they require, and be afforded them special protection in order that they may enjoy the rights conferred by this Title upon all citizens".

The article 49 of the Spanish Constitution supposed the first legislative step for the social integration of the persons with disabilities because it matches as a direct mandate to the public powers, making mandatorily a policy of prevision, treatment, rehabilitation and integration of the physic, sensorial and mental disabled persons, to whom they shall give the required individual attention. This constitutional mandate finished, in the legislative area, with the publication of the Act 13/1982, April 7th, of social integration of the disabled persons (in Spanish LISMI). The essential principles of this Act are based on guarantying the personal fulfilment and the total social integration of the disabled persons.

The General Act of the rights of the disabled persons and its social inclusion, Royal Legislative Decree 1/2013, November 29th, which approves the consolidated text of the [General Act of the rights of the disabled persons and its social inclusion](#) recognises the disabled persons as owner of a series of rights, and the public powers as guarantors of the real and effective execution of that rights.

This act consolidates, clarifies and harmonises in a single text, the essential laws in terms of disabilities: the Act 13/1982, April 7th, of social integration of the disabled persons, the Act 51/2003, December 2nd, of equality of opportunities, no discrimination and universal accessibility of the people with disabilities (in Spanish

LIONDAU), and the Act 49/2007, December 26th, infringements and sanctions in terms of equality of opportunities, no discrimination and universal accessibility of the persons with disabilities.

Royal Legislative Decree 1/2013, in its article 2. g) presents the positive action measures: are those of specific character focused on avoiding or compensating the disadvantages derived from de disability and intended to accelerate or to accomplish the equality of rights for the persons with disabilities and its complete participation in the areas of the political, economic, social, educative, labour and cultural life, attending to the different types or grades of disability.

It includes a Title dedicated to rights of the persons with disabilities, which shall give its protection to all the areas, from the protection of the health to the integral attention, including the education and the labour, the social protection, until the independent life, and the involvement in the public affairs.

Royal Legislative Decree 1/2013, Title I. Rights and obligations. Article 7. Right to the equality. The section 4 contains: "Therefore, the public administrations shall protect singularly and intensely those persons or group of persons especially vulnerable to the multiple discrimination, as the young girls, children and women with disabilities, elder people with disabilities, women with disabilities which have been victims of gender-based violence, persons with multi-disabilities or other persons with disabilities who are part of minorities".

Article 13: Complete participation in all aspects of life. Article 53: *Right of participation in the political life*. The persons with disabilities may exercise the right of participation in the politic life and in the election processes in equality of conditions than the rest of citizen, according to the current regulations. To that end, the public administration shall put to their disposition the media and resources that would be necessary.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

[Representation of the People Institutional Act 5/1985, of June 19 \(LOREG\)](#)

Section 3. Disenfranchisement

1. The following have no right to vote:

- a) Persons convicted by a final court's decision to forfeiture of the right to vote as the main or as an accessory penalty during the term of the conviction.
- b) Persons pronounced incapable by a final judicial decision, provided said decision specifically declares the incapacity for the exercise of suffrage.
- c) Persons residing in a mental hospital by authorization of a court, where the court explicitly declares in said authorisation the subject's incapacity to exercise his right to vote.

2. For the purposes of this section, the courts or tribunals having jurisdiction for declaring incapacity or enforced residence in a mental hospital must specifically pronounce on the subject's incapacity to exercise his right to vote, and if such is the case, they shall so notify the Civil Register for entry of the relevant note.

Those declared as disabled are not in any of the cases of ineligibility.

Those who are electable are adult Spaniards over who, in possession of the elector's feature, are not involved in any of the causes of ineligibility gathered in the Organic Act 5/1985 of the General Electoral Regime.

Section 6. Passive franchise

2. The following are also ineligible:

- a) Persons sentenced to imprisonment by a final court's decision, for the term of their conviction.
- b) Persons convicted, even if judgment is not yet final, for rebellion, terrorism or other offences against the State where the judgment has imposed the penalty of forfeiture of eligibility according to criminal law or the penalty of total or specific disqualification or suspension from public office.

3. How many members of parliament have declared some form of disability?

There is no declaration of disability. In Spain, we approved the Act 27/2007, which recognises the Spanish sign language and regulates the supports facilities to oral communication for deaf people, people with auditory disability and deaf-blind people; and which, in its section 9 contains: "it is entrusted for the public powers promoting the provision of the service of interpreters in Spanish sign language to all the deaf people, with auditory disability and deaf-blind people when necessary, in the different public or private areas." "The public powers shall promote measures against the discrimination and shall establish positive action measures". Furthermore, a Centre of Linguistic Normalisation of Spanish Sign Language shall be created, and governed by a collegiate body formed by officials of the Administration and entities which represent the collective. The Congress of Deputies signed in 2013, a Framework Cooperation Agreement with the State Confederation of Deaf People, the National Organisation of Spanish Blind People and the Spanish Confederation of Deaf People's Families.

The object of the agreement is to advertise to de disable people the existing activities, as well as the documentation produced by the Congress of Deputies, through the media that allow their whole accessibility.

4. How many persons with disabilities hold ministerial positions? No one.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)? Yes, step by step. It is a common aim.

Réponses envoyées par Mme Carmen Quintanilla Barba (Espagne, PPE/DC), membre de la Commission

1. Votre pays dispose-t-il d'une législation particulière concernant les droits politiques et la participation des personnes handicapées ? Pourriez-vous préciser ce que couvre cette législation et quelles garanties sont données ? Si vous avez déjà envoyé une réponse à la requête 2956, nous vous serions reconnaissants de bien vouloir indiquer s'il y a eu des changements législatifs depuis 2015.

En España el Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y de su inclusión social, en su Capítulo VIII, apartado número 2 sobre el Derecho de Participación en los Asuntos Públicos, recoge en su Artículo 53 sobre el Derecho de Participación en la Vida Política que : "Las personas con discapacidad podrán ejercer el derecho de participación en la vida política y en los procesos electorales en igualdad de condiciones que el resto de los ciudadanos conforme a la normativa en vigor. Para ello, las administraciones públicas pondrán a su disposición los medios y recursos que precisen".

2. Le droit de voter et celui d'être élu sont-ils liés à la capacité juridique ? Si tel est le cas, de quelle manière ? Lorsqu'une personne est privée de son droit de voter et d'être élue, cette décision est-elle réévaluée régulièrement ?

En el Estado Español, solo un juez puede privar del derecho al voto en dos supuestos: ser condenado por un delito o ser objeto de un proceso de incapacitación. Este último sirve para poner bajo tutela a quienes no pueden regirse por sí mismos en determinados aspectos, como algunas personas con discapacidad intelectual, con problemas mentales o mayores con deterioro cognitivo. La decisión judicial puede ser revisable aunque no se establece un periodo regular concreto.

En el Congreso de los Diputados hace dos años se presentó una proposición no de ley con el fin de eliminar las restricciones de voto de las personas con discapacidad intelectual con el fin de adecuar la ley electoral, que obliga a los jueces a revisar la posibilidad de privar del sufragio en los procesos de incapacitación, a la Convención de la ONU sobre los Derechos de las Personas con Discapacidad, aprobada en 2006 y vigente en España desde 2008. Esta norma prevé que los Estados deben asegurar la participación de las personas con discapacidad en la vida política. Incluidos el derecho y la posibilidad de votar y ser elegidas.

De hecho, en España hasta hace unos años, lo habitual era, por defecto, incluir en los procesos de incapacitación comunicar la sentencia al censo electoral para la consiguiente privación del derecho al sufragio, ya que los casos se trataban de forma general, como procesos rutinarios y estereotipados con sentencias redactadas a partir de formularios ya establecidos que incluían la privación del voto.

No obstante, en los últimos años se está haciendo un gran esfuerzo y se han conseguido grandes avances con el fin de que se priorice la conservación del derecho al sufragio en los procesos de incapacidad y que la excepción del derecho al voto sea evaluada siempre por el juez pero no de manera automática, sino valorando cada caso particular, ya que también se pueden producir casos en los que se pueda dar una manipulación del voto de la persona con discapacidad por parte de terceras personas.

En la actualidad, aún se registran casos de privación del derecho al voto pero son cada vez menos y, además, son recurribles y las resoluciones de incapacidad pueden ser revisadas con el tiempo.

3. Combien de membres du parlement ont déclaré une forme quelconque de handicap ?

En la última legislatura el Parlamento no contaba con ningún diputado o diputada con discapacidad. Sin embargo, en la anterior legislatura sí había un diputado del Grupo Parlamentario Popular con discapacidad y también es cada vez más habitual que personas con discapacidad sean diputados en los parlamentos regionales o concejales en los ayuntamientos. Por ejemplo, en las últimas elecciones municipales resultó elegida la primera concejala con síndrome de Down que ha habido en España, concretamente en el Ayuntamiento de Valladolid.

4. Combien de postes ministériels sont occupés par des personnes handicapées ?

Actualmente ninguno.

5. Quelles mesures concrètes sont prises pour garantir la participation des personnes handicapées à la vie politique et publique, y compris au sein des partis politiques, des organisations non-gouvernementales et des associations ? Les matériels de campagne et/ou électoraux sont-ils

systematiquement accessibles aux personnes handicapées (versions faciles à lire, braille, sous titres, etc.) ?

La Constitución Española en su artículo 9.2 señala que “corresponde a los poderes públicos promover las condiciones para que la libertad y la igualdad del individuo y de los grupos en que se integra sean reales y efectivas; remover los obstáculos que impidan o dificulten su plenitud y facilitar la participación de todos los ciudadanos en la vida política, económica, cultural y social” y en su artículo 23 recoge que: “Los ciudadanos tiene el derecho a participar en los asuntos públicos, directamente o por medio de representantes, libremente elegidos en elecciones periódicas por sufragio universal. Asimismo, tienen derecho a acceder en condiciones de igualdad a las funciones y cargos públicos, con los requisitos que señalen las leyes”.

Del mismo modo REAL DECRETO 422/2011, de 25 de marzo, por el que se aprueba el Reglamento sobre las condiciones básicas para la participación de las personas con discapacidad en la vida política y en los procesos electorales recoge todas las medidas de obligado cumplimiento para facilitar el acceso de las personas con discapacidad a la participación política y para ejercer su derecho al voto.

En esta línea, cabe destacar que desde el año 2008, ciegos podrán votar en las elecciones generales sin ayuda de nadie gracias a un novedoso sistema que garantiza el voto accesible y secreto de las personas con esta discapacidad a través del sistema braille.

En cuanto se refiere a los partidos políticos, cada vez están más comprometidos con las personas con discapacidad incluyendo en sus equipos a miembros que representan a este colectivo tanto a la hora de elaborar los programas electorales como a la hora de confeccionar las listas electorales, de las que cada vez forman parte un mayor número de personas con discapacidad.

Replies sent by the Senate to ECPRD request 2956

1) The Organic Act on General Electoral System provides in its Section 87 that the electors who cannot read or are unable for reasons of physical disability to pick up the ballot paper or put it in the envelope and hand it in person to the presiding officer of the polling section, may avail themselves of the assistance of a person of their own choice.

Also there are some provisions regulating the vote of blind persons or persons with a visual disability. These persons have at their disposal the voting documents (ballot papers and envelopes) in Braille system and specific suitable rooms in the polling stations in order to guarantee the secrecy of vote.

At the same time, and according with general legislation on the rights of disable persons, the polling stations should be accessible to these persons.

2) No

35. SWEDEN / SUEDE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

There have been no legislative changes to the Swedish Elections Act since the time of our reply to ECPRD request 2956. In addition to that reply, some further information on Swedish disability policy and legislation is presented below.

Swedish disability policy

In 2000, the Swedish Government presented a national action plan, “From patient to citizen” (Government bill 1999/2000:79), outlining a disability policy which is still valid. The plan emphasizes a civic perspective, meaning that persons with disabilities are to be seen, not as patients but as citizens with rights and obligations like everyone else. The cornerstone of the Swedish disability policy is the principle that every person is of equal value and has equal rights. General efforts to improve accessibility in the community, combined with different forms of individual support, are seen as central to achieving the goals of inclusiveness and equality. According to the Government’s strategy for disability policy implementation 2011–2016, disability issues shall permeate all community sectors and all planning at national, regional and local level. In 2008, the Swedish Government ratified the UN Convention on the Rights of Persons with Disabilities. The Convention is legally binding and, as a result, Sweden has committed to ensuring that national legislation does not discriminate against people with disabilities.

National legislation

According to the basic principles of the form of government laid down in the *Instrument of Government* (1974:152), part of the Swedish Constitution, public institutions shall promote the opportunity for all to attain

participation and equality in society and combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the individual (Instrument of Government, Ch. 1 Art. 2).

The *Discrimination Act* (2008:567) protects against discrimination on the grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age (Ch. 1, Art. 1). The basis for discrimination on the grounds of disability covers physical, mental and cognitive disabilities. Since 1 January 2015 inadequate accessibility is included in the Discrimination Act as a new form of discrimination, besides direct and indirect discrimination, harassment, etc. Inadequate accessibility is defined as disadvantaging a person with disability through a failure to take measures for accessibility to enable the person to come into a situation comparable with that of persons without this disability where such measures are reasonable (Ch. 1, Art. 4). The aim is to contribute to increased accessibility in society as to ensure the equal participation of persons with disabilities. The prohibition of discrimination through inadequate accessibility will apply to the following areas of society: working life, education, labour market policy activities and employment services not under public contract, starting or running a business, professional recognition, membership of certain organizations, goods and services, public meetings, public events, health and medical care, social services, social insurance, unemployment insurance, state financial aid for studies, national military and civilian service, and public employment.

The Discrimination Act is divided into two parts. The proactive part of the law imposes a duty to take positive action and concerns working life and the educational system. The reactive part of the law deals with the prohibition of discrimination in working life, in the educational system and in other areas of society.

For further details, please find an English version of the Discrimination Act at the Swedish Government's website, <http://www.government.se/information-material/2015/09/discrimination-act-2008567/>.

The *Act concerning Support and Service for Persons with Certain Functional Impairments* (1993:387) is a human rights law designed to offer people with extensive disabilities greater opportunities to lead independent lives, and to ensure that they have equal living conditions and enjoy full participation in community life. It can offer support in the form of personal assistance in everyday life but, as its name indicates, applies only to certain groups of disabled people. People not covered by this act can seek assistance from their municipality under the *Social Services Act*. This and the *Planning and Building Act* (2010:900) are examples of laws containing clauses that apply specifically to disabled people. The Planning and Building Act contains exhaustive rules on accessibility in connection to new construction, rebuilds, and alterations. It also requires easily remedied barriers to be removed so as to improve the accessibility of existing facilities open to the general public and public places.

The *Elections Act* (2005:837) contains provisions regarding accessibility to polling stations and stipulates a number of different ways to cast one's vote, in order to give all voters the opportunity to exercise their voting rights. Following amendments of the Elections Act in 2014, requirements for accessibility were strengthened. For example, ambulating voting clerks were introduced for voters who owing to illness, disability or old age cannot personally make their way to a polling station, and the provision which allowed municipalities to seek exemption from accessibility criteria was removed. Thus, inaccessible premises may no longer be used for polling stations. According to the Election Authority, the accessibility requirements on polling stations include the road from the car park or the public transport stops to the entrance of the polling station, the entrance hall, stairs, corridors etc. inside the building where the voter must pass through to the voting booth. For the relevant provisions in the Elections Act, please see the information given in our reply to request 2956, which is still valid.

The *Local Government Act* (1991:900) also contains provisions that have a direct bearing on political participation for elected representatives with disabilities. It stipulates that municipal and county councils shall make efforts to ensure that elected representatives with disabilities can take part in handling items of business on the same terms as other elected representatives (Ch. 4, Art. 33), and contains provisions regarding the right to compensation for travel for elected representatives with disabilities (Ch. 4, Art. 12 a). Recently, in 2014, the Local Government Act was also amended to make it possible for elected representatives to participate in long-distance decision-making in local government committees (Ch. 5, Art. 38 a) with the intention to facilitate the recruitment of elected representatives, particularly within certain groups, such as disabled persons and persons living in sparsely populated areas.

The *Radio and Television Act* (2010:696) also contains important provisions with regard to political participation of persons with disabilities. For example, the act stipulates that a media service provider of TV broadcasts, on demand TV or Teletext other than through cable shall devise the service in such a way that it becomes accessible for persons with functional impairments, by texting, interpreting, audio description or other similar techniques (Ch. 5 Sect. 12).

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

No. Sweden ensures all persons with disabilities, including persons with psychosocial and intellectual disabilities, the right to vote and to be elected. The possibility of declaring a person incapacitated, with a loss of voting rights and eligibility as a consequence, was abolished in 1989. Today, an administrator can be appointed to a person incapable of looking after his or her rights, property or person, due e.g. to illness or functional disability. This does not, however, affect the voting rights or eligibility of the individual for whom the administrator is appointed.

3. How many members of parliament have declared some form of disability?

4. How many persons with disabilities hold ministerial positions?

There are no such records regarding MPs or members of the Government.

According to a study published by the Swedish Agency for Disability Policy Co-ordination in 2007 about accessibility in the political life in Sweden for people with disabilities, 32 percent of the elected politicians in the municipalities had a disability according to the definition used in the research. Half of those, however, did not themselves consider that they had a disability.³⁹

During the last electoral period (2010–2014), a wheelchair person served as MP, and during the past two electoral periods (2006–2014), the Swedish Minister for Culture and Sports was a person with severely impaired hearing. The Parliamentary Administration helps facilitate good working conditions as needed upon request from individual MPs (and officials). According to the *Riksdag's accessibility policy*, the Riksdag shall be a place of work where people with functional disabilities can work on the same terms as others. This means that the working conditions shall be adapted to people's different physical and psychosocial preconditions. The policy also states that it should be possible for people with functional disabilities to visit the Riksdag and receive information on the same terms as others.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Election Authority provides films with sign language interpretation about the election system and voting on its website. Information on political candidates and parties are broadcasted on public and private television. The Swedish National Television (SVT) has made its programs accessible to people with disabilities by offering subtitles, spoken text, sign language interpretation and audio description of the programs.

In order to assist the municipalities and county councils that choose to introduce the opportunity to make long-distance decision-making a real possibility (cf. recent amendment of the Local Government Act above), the Swedish Association of Local Authorities and Regions (SALAR) has been given state financial support to develop information technology and software to enable long-distance decision-making within local government committees. SALAR is also promoting support for local government to begin using the technology.

In connection with the amendment of the Elections Act in early 2014 with regard to the removal of the provision which allowed municipalities to seek exemption from accessibility criteria at polling stations (cf. above), the Swedish Agency for Participation was given a government assignment to examine the accessibility at polling stations in the general elections in September 2014 and to assess the effects of the amended legislation. The report, *Electoral participation on equal terms*, showed that, despite the changed law, there were still deficiencies in the accessibility to the voting and election premises, and the agency made a number of recommendations with regard to specific measures needed to improve accessibility in the 2018 general elections, such as increased knowledge of accessibility and uniform guidelines and standards, improved design of the ballot papers, investigation of technical capabilities to simplify voting, and increased access to information from public authorities, municipalities and parties.⁴⁰

In July 2014, the Government appointed a commission of inquiry (*The 2014 Commission on Democracy – Participation and equal influence*) to investigate how to increase and broaden political engagement within representative democracy and how to increase the influence of individuals between elections. According to the terms of reference, the Commission was to consider whether the elected representatives reflect the composition of the population with respect to sex, age, country of birth and disability. In its report, which was presented in January 2016, the Commission concluded that there is no crisis of democracy in Sweden, but

³⁹ Swedish Agency for Disability Policy Co-ordination (Handisam) (2007), *Accessibility in the political life of local governments (Tillgängligheten i det politiska livet i kommuner och landsting)*.

⁴⁰ Myndigheten för Delaktighet (2014) *Val på lika villkor – en studie av tillgängligheten vid de allmänna valen*.

that the gap in political participation has widened and that democratic influence is not evenly distributed. The Commission therefore proposes a new objective of democracy policy: 'A sustainable democracy that is characterised by participation and equal influence', emphasizing that more equal participation means that all citizens have the same opportunities to participate in and exert influence on political processes, regardless of their sex, skin colour, ethnicity, religious belief, disability, sexual orientation, age or socio-economic status. The commission states that the objective of democracy policy must be followed by measures aimed at increasing political participation and creating conditions for equal influence: The Government should carry out measures to promote democracy before and between elections with the aim of increasing political equality. Civil society organisations should be provided with the necessary conditions to engage those who otherwise participate to a lesser extent. Municipalities, county councils and the Government have a specific responsibility to create opportunities for citizens to participate and communicate their concerns and preferences in the political decision-making process. This is declared to be the aim of several of the Commission's proposals.

With regard to the political influence of persons with disabilities, the conclusions and proposals of the commission are summarized as follows:

Persons with disabilities participate less in democracy than others. This is reflected in lower rates of voter turnout and in their representation in elected assemblies. Access barriers of various kinds still constitute an obstacle to disabled persons fully participating in society. While physical access to the meeting rooms for elected assemblies has improved, the meeting rooms used for committee meetings and for internal party meetings still have significant access barriers. Therefore, it is crucial that the removal of access barriers is continued and that municipalities and counties provide accessible meeting rooms for committee meetings and internal party meetings and, to a larger extent than today, allow distance decision-making in elected assemblies and committees.

One problem, in particular for elected representatives in need of assistance and services to fulfil their political assignment, is combining the assignment with work and family life as they have difficulties in obtaining additional hours of assistance or services to allow them to serve politically. Elected representatives in need of assistance and accompanying services are to receive the necessary assistance to fulfil their political assignments.

The Commission's proposal that the elected assembly should promote the participation of the members of the municipality or county council in the decision-making process also has implications for people with disabilities. We therefore suggest that municipalities and counties establish citizens' councils with real possibilities for influence. The elected assembly should further adopt regulations for the function of the citizens' councils in local democracy.

In order to secure a more prominent role for democratic participation in national disability strategy, democratic participation should be introduced as a separate goal. By adopting a specific goal on democratic participation, the importance of removing barriers in democracy promotion is stressed. At the same time, the conditions for monitoring the development of democratic participation among people with disabilities are improved.⁴¹

The Commission Report has been referred for consultation to a number of authorities and civil society organisations until 21 June 2016, after which the proposals will be considered by the Government.

In September 2014, Statistics Sweden (SCB) was given a government assignment to study electoral participation among persons with disabilities. In its report, *Political Participation among people with disabilities*, Statistics Sweden concluded that election participation, both in the European Parliament election and in the Riksdag election, was somewhat lower among persons with disabilities compared with the rest of the population. It also showed that election participation varied by type of disability; persons with reduced mobility, disorders from anxiety and distress, and those with impaired vision voted to a lesser extent than people without these disorders and disabilities in the 2014 election.⁴²

In April 2015, the Government assigned the Swedish Agency for Participation, together with the Equality Ombudsman, with the task to launch a *campaign to increase awareness* among the general population, the employees in the public sector and persons with disabilities about the UN Convention on the Rights of Persons with Disabilities and about the new prohibition in the Discrimination Act with regard to lack of accessibility (cf. above). The campaign will last until 2017. In November 2015, the Swedish Agency for Participation was also given a government assignment to carry out a *study of democratic participation among persons with disabilities between elections*. A report will be presented in October 2016.

⁴¹ Government Official Report (SOU) 2016:5 Let the future be shaped by many! (*Låt fler forma framtiden!*).

⁴² Statistics Sweden (SCB) (2015), *Political Participation among people with disabilities (Valdeltagande bland personer med funktionsnedsättning)*, Democracy Statistics Report 18.

A special material that makes it possible for visually impaired who can read Braille to vote for a party without assistance have been produced and distributed to those persons (about 900 in the 2010 general elections). However, the problem that persons with reading and writing difficulties are unable to exercise their right to vote for individual candidates while maintaining secret ballot, has been observed and debated. In April 2016, the Riksdag made an announcement to the Government that a satisfactory solution with regard to the problem – i.e. that a person with reading and writing difficulties cannot make a personal vote without having to ask someone for help – shall be in place at the latest before the general elections in 2022.⁴³

Replies to ECPRD request 2956

1. Does the law on elections in your country have any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

The Elections Act (Swedish Code of Statutes 2005:837) applies to elections to the Swedish Parliament (the Riksdag), to elections to county council and municipal assemblies and also to elections to the European Parliament. Unfortunately there is no updated English translation of the Elections Act. Comprehensive amendments of the rules and regulations applicable for elections have recently taken place. A summary of the most relevant provisions is provided below. The overall ambition with the provisions on voting is that all voters shall be given the opportunity to exercise their voting rights. It should be emphasized that the Swedish Elections Act enables for voters to choose whether they want to vote on the election day or make use of the opportunity to cast one's vote prior to the election day. The opening date for early voting is laid down in the Elections Act and varies depending on the kind of election in question and also on the different forms of voting.

There are a number of different ways to cast one's vote. Voting takes usually place at vote reception points. Voters shall vote in the first instance at their polling stations on the election day. They can also prior or during the election day vote at voting places set up by the municipalities or foreign missions. Voters may also in certain cases vote by messenger or letter. For voters who owing to illness, disability or old age cannot personally make their way to a vote reception point there is also a possibility of giving one's vote to ambulating voting clerks appointed by the municipality. This means that upon request voting clerks – always working at least two by two – can come to the voter's residence, assist the voter to the extent that is necessary and receive their vote envelopes. (Chapter 7, Section 1)

Voting by letter is an option available only for voters who are staying abroad or on board a vessel in foreign traffic. (Chapter 7, Section 11)

When voting at a vote reception point, voters shall arrange their votes behind a voting booth and thereafter give the vote envelopes to the voting clerks. Voters who owing to a disability or the like cannot personally arrange their votes, shall upon request be given assistance with this by the voting clerks, to the extent that is necessary. Such voters may also engage someone else to assist him or her to arrange their votes. (Chapter 7, Section 3)

The municipality shall ensure that there are suitable premises that can be used as vote reception points and which as regards the location, accessibility and opening hours afford voters good opportunities to vote. (Chapter 4, Section 20 and 22)

If for some reason the vote reception point is not available for a voter with disability – the elevator is temporarily out of order or the like – the voting clerks can receive their vote envelopes outside the vote reception point, provided this can be done in a secure manner. (Chapter 8, Section 7 a)

Voters who owing to illness, disability or old age cannot personally make their way to a vote reception point may deliver their ballot papers there by messenger (Chapter 7, Section 4). The forms for voting by messenger are thoroughly regulated in the Elections Act, e.g. which persons may act as messengers, how votes by messenger are arranged and how they are received (Chapter 7, Sections 4-10 and Chapter 8, Sections 8-13). Another option for such voters is – as already mentioned above – to request that ambulating voting clerks come to their residence. (Chapter 7, Section 3 a)

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

There are no such provisions on mandatory quotas.

⁴³ Committee Report 2015/16:KU14.

36. SWITZERLAND / SUISSE

1. Votre pays dispose-t-il d'une législation particulière concernant les droits politiques et la participation des personnes handicapées ? Pourriez-vous préciser ce que couvre cette législation et quelles garanties sont données ?

La Constitution fédérale établit le principe suivant :

Art. 136 Droits politiques

1 Tous les Suisses et toutes les Suissesses ayant 18 ans révolus qui ne sont pas interdits pour cause de maladie mentale ou de faiblesse d'esprit ont les droits politiques en matière fédérale. Tous ont les mêmes droits et devoirs politiques.

2 Ils peuvent prendre part à l'élection du Conseil national et aux votations fédérales et lancer et signer des initiatives populaires et des demandes de référendum en matière fédérale.

<https://www.admin.ch/opc/fr/classified-compilation/19995395/index.html#a136>

En Suisse, les droits politiques des personnes handicapées ne sont pas réglementés par une loi spéciale ; ils sont consignés dans la loi fédérale sur les droits politiques (LDP).

<https://www.admin.ch/opc/fr/classified-compilation/19760323/index.html>

Tous les citoyens suisses ont des droits politiques, à l'exception des personnes visées à l'art. 2 LDP :

Art. 21 Exclusion du droit de vote

Les interdits exclus du droit de vote au sens de l'art. 136, al. 1, de la Constitution sont les personnes qui, en raison d'une incapacité durable de discernement, sont protégées par une curatelle de portée générale ou par un mandat pour cause d'incapacité.

<https://www.admin.ch/opc/fr/classified-compilation/19760323/index.html#a2>

La Suisse a mis en place des conditions très favorables en matière de vote par correspondance, si bien que les personnes à mobilité réduite n'ont plus besoin de se rendre aux urnes pour voter.

Cf art. 8 LDP :

<https://www.admin.ch/opc/fr/classified-compilation/19760323/index.html#a8>

L'art. 6 LDP stipule que : Les cantons pourvoient à ce que l'électeur qui est atteint d'invalidité ou qui, pour un autre motif, est durablement incapable d'accomplir lui-même les actes que requiert l'exercice de son droit de vote, ait néanmoins la possibilité de voter.

<https://www.admin.ch/opc/fr/classified-compilation/19760323/index.html#a6>

Quelques exemples d'offres proposées aux personnes handicapées sont décrits ci-après :

<https://www.ch.ch/fr/elections2015/comment-participer-aux-elections-du-parlement/conseil-national-comment-voter/aide-aux-personnes-agees-infirmes-malades-ou-handicapees/>

2. Le droit de voter et celui d'être élu sont-ils liés à la capacité juridique ? Si tel est le cas, de quelle manière ? Lorsqu'une personne est privée de son droit de voter et d'être élue, cette décision est-elle réévaluée régulièrement ?

La curatelle n'est pas réévaluée régulièrement, mais sur demande :

L'autorité de protection de l'adulte lève la curatelle si elle n'est plus justifiée, d'office ou à la requête de la personne concernée ou de l'un de ses proches.

Art. 399 Code civil

<https://www.admin.ch/opc/fr/classified-compilation/19070042/index.html#a399>

3. Combien de membres du Parlement ont déclaré une forme quelconque de handicap ?

Les membres du Parlement ne sont pas tenus de déclarer leurs handicaps. Pour l'instant, seul un député est en fauteuil roulant.

<http://www.arcinfo.ch/articles/suisse/palais-federal-un-conseiller-national-en-chaise-roulante-189434>

4. Combien de postes ministériels sont occupés par des personnes handicapées ?

En 2015, 1,5 % du personnel de l'administration fédérale était des personnes handicapées pour lesquelles des demandes d'affectation de fonds pour l'intégration professionnelle ont été faites.

<https://www.epa.admin.ch/epa/fr/home/themes/la-confederation/le-personnel-federal-en-chiffres.html>

5. Quelles mesures concrètes sont prises pour garantir la participation des personnes handicapées à la vie politique et publique, y compris au sein des partis politiques, des organisations non-gouvernementales et des associations ? Les matériels de campagne et/ou électoraux sont-ils systématiquement accessibles aux personnes handicapées (versions faciles à lire, braille, sous titres, etc.) ?

À l'échelon national, il convient, en plus des directives susmentionnées, d'évoquer la loi sur l'égalité pour les handicapés : <https://www.admin.ch/opc/fr/classified-compilation/20002658/index.html>

Dans la pratique, de nombreux efforts sont accomplis pour favoriser la participation de personnes handicapées à la vie politique.

Quelques exemples: Elections fédérales 2015 pour tous

La nouvelle plateforme dédiée aux élections, ainsi que les explications sur les modalités de vote, sont particulièrement adaptées aux personnes aveugles ou malvoyantes. Des vidéos au langage simple et clair rendent ces explications accessibles à tous. Des vidéos en langues des signes apportent ces mêmes informations aux personnes sourdes et malentendantes. Enfin, des informations pratiques telles que « Comment se rendre aux urnes » complètent cette offre destinée aux personnes handicapées.

<https://www.ch.ch/fr/des-elections-federales-2015-pour-tous/>

Vidéos d'information sur le Parlement et sur la façon de remplir le bulletin électoral, à l'intention des personnes sourdes et malentendantes :

<https://www.ch.ch/fr/elections2015/langue-des-signes-informations-sur-le-elections-federales/>

Le nouveau site Internet du Parlement suisse est convivial et accessible à tous :

<https://www.parlament.ch/press-releases/Pages/mm-info-2016-02-18.aspx?lang=1036>

La députée Pascale Bruderer maîtrise la langue des signes, sans être elle-même en situation de handicap :

[http://www.pascale-](http://www.pascale-bruderer.ch/fileadmin/files/aktuell/medienecho/_dokumente/2009/nov/24_heures_20091120.pdf)

[bruderer.ch/fileadmin/files/aktuell/medienecho/_dokumente/2009/nov/24_heures_20091120.pdf](http://www.pascale-bruderer.ch/fileadmin/files/aktuell/medienecho/_dokumente/2009/nov/24_heures_20091120.pdf)

Accès au bâtiment du Parlement suisse pour les visiteurs :

Accès en fauteuil roulant

Les visiteurs se déplaçant en fauteuil roulant accèdent au Palais du Parlement par l'entrée nord, située du côté de la Place fédérale.

Informations destinées aux malvoyants

Une brève description du Palais du Parlement en braille peut être mise à la disposition des malvoyants.

<https://www.parlament.ch/fr/services/visite-du-palais-du-parlement/informations-importantes-visites-dehors-sessions>

Gouvernement du canton du Tessin

Le 10 avril 2011, Manuele Bertoli, directeur de Unitas, la section italienne de la Fédération suisse des aveugles et malvoyants (FSC), a été élu conseiller d'Etat du canton du Tessin. Pour la première fois en Suisse, un non-voyant siège au sein d'un gouvernement cantonal.

<http://www.forumhandicapvalais.ch/?p=1310>

37. TURKEY / TURQUIE

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

There is no specific regulation for the persons with disabilities regarding their participation in political and public life. All provisions regarding this field are evaluated under the equality principle set in Art. 10 of the Constitution that reads:

“Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.”

Furthermore, with the amendment brought to this article in 2010, it also states that:

“Measures to be taken for children, the elderly, disabled people, widows and orphans of martyrs as well as for the invalid and veterans shall not be considered as violation of the principle of equality. No privilege shall be granted to any individual, family, group or class. State organs and administrative authorities are obliged to act in compliance with the principle of equality before the law in all their proceedings.”

Thus, positive discrimination gained a constitutional basis for persons with disabilities besides other groups defined through this article.

There is no legal restriction on the rights of persons with disabilities to vote and be elected. However, there is one exception that is persons for whom guardians were appointed by judicial authorities due to the fact that they have mental illnesses are defined as not eligible to vote and cannot be elected as a member of parliament.

Law on Basic Provisions on Elections and Voter Registers (Law no.298) defines the citizens who are not eligible to vote and indicates that persons for whom guardians are appointed by judicial authorities due to having mental illnesses are not eligible to vote in elections or in referendums. All persons with disabilities aside the ones with mental illnesses have the right to vote and be elected.

There are some provisions in the above mentioned law defining the voting procedures and facilities, which are appropriate and accessible to people with disabilities.

According to the Art. 36, *“Any disability of a voter to prevent the voter from casting his/her vote shall be noted on the form during registration of voters.”*

According to the Art. 74, *“The ballot-box committee shall determine the locations of ballot-boxes and the measures to be taken to complete voting on time under the supervision of county election boards. It is considered, in determining the locations of ballot-boxes, that voters cast their votes simply, freely and confidentially. Measures shall be taken to provide disabled voters to cast their votes easily. Ballot boxes shall be placed in public places such as appropriate parts of school yards (including private schools and private courses) and rooms, and, if not sufficient, in other places to be hired for that purpose, such as cafes, restaurants, etc.”*

According to the Art. 90, *“Voters coming to related ballot-box on the day of voting shall be admitted by the chairman of the committee consecutively, one voter at a time. Pregnant women, ill and disabled voters shall have priority. Elderly voters may be admitted earlier.”*

According to the Art. 93, *“After folding and sticking the combined ballot papers in the voting booth, voters shall leave the booth and insert the combined ballot papers personally in the ballot-box. Disabled voters, with apparent disability such as blindness, stroke, paralysis or similar physical defects may be accompanied by one of their relatives who are voters in the same election district or, in the absence of any relative, by any other voter to provide assistance in casting their votes. A voter cannot accompany more than one disabled. The chairman of the ballot-box committee shall, while delivering the voter his/her identity card, have the voter sign the box adjacent to his/her name in the voter list and mark the left index finger of the voter with special permanent ink. Voters not able to sign may affix their finger print on the signature box in the list. Voters lacking the said index finger may imprint any other finger and the chairman shall write on the list to which finger the print belongs. The chairman shall mark the neck part of voters having no fingers.”*

Besides, the Election Committee that is formed of members appointed by Supreme Election Board and observers from political parties audit whether the voting process implemented in due course. The Supreme Board meets the accessibility requirements of persons with disabilities through its organs based on the legislation and provides information on the elections through the media. By means of training programmes, the personnel who will be responsible for the electoral process are trained to know how to guide persons with disabilities that wish to use their votes.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to Art.8 of the Law No.298 on Basic Provisions on Elections and Voter Registers those place under the care of a guardian shall not be entitled to cast vote. Art.76 of the Constitution of Turkish Republic states that persons who have been deprived of legal capacity shall not be elected as a deputy.

Issues of the legal capacity are regulated by the Civil Code of Turkey. A person can be declared as lacking of legal capacity only by a court. The decision on deprivation of legal capacity is not re-assessed on a regular basis. Guardianship on interdicted persons terminates by the decision of competent guardianship authority, the court. Upon disappearing of the cause necessitating guardianship, the court decides termination of it. Interdicted person and every one of the persons concerned may make request for termination of guardianship.

3. How many members of parliament have declared some form of disability?

This info is not publicly declared. Only one member is in a wheelchair.

4. How many persons with disabilities hold ministerial positions?

None.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The news is regularly given in sign language. Along with others the news includes information on the election. Political parties provide published materials (books/booklets) also in easy to read version and services for persons with disabilities to inform them of their rights.

The Ministry of Family and Social Policies' Directorate General for Persons with Disabilities and Elderly Services is responsible for dealing with the difficulties and inequalities faced by persons with disabilities in different fields of life. According to the Law on Disabled People (Law no. 5378) all the public buildings, urban neighbourhood and public transportation vehicles should be accessible to disabled persons. There are great efforts to improve the physical environment, facilities and infrastructure which are currently out of line with the requirements of persons with disabilities.

The buildings of public institutions are being renovated to accommodate people with disability. The modifications were also made to allow people with disabilities to act independently in the Parliament campus. Portable disabled ramps, disabled elevators and ramps in the walk ways were placed to optimize the accessibility of persons with disabilities in the GNAT campus.

Audio recordings were added for the visually impaired to the GNAT web page. In addition to the administrative structure, processes of law making and parliamentary scrutiny were included in the audio recordings.

38. UKRAINE

Replies sent by the Verkhovna Rada

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

Ukraine has no specific legislation with regard to the political rights and participation of persons with disabilities, the legislation in this area is based on the major international documents ratified by Ukraine, including the UN Convention on the Rights of People with Disabilities ratified, on 16 December 2009. The Constitution of Ukraine contains general provisions regarding electoral and political rights, such as, as states in Articles 70, 71: "Citizens of Ukraine who have attained the age of eighteen on the day elections and referendums are held, have the right to vote at the elections and referendums. Citizens deemed by a court to be incompetent do not have the right to vote. Elections to bodies of state power and bodies of local self-government are free and are held on the basis of universal, equal and direct suffrage, by secret ballot. Voters are guaranteed the free expression of their will." The Law of Ukraine On Elections of President of Ukraine, in Elections of Members of Parliament of Ukraine, on Elections of Deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, Local Councils and Village, Town, City Mayors and on Ukrainian Referendum also define the basic principles, organization and procedure of elections. The abovementioned laws contains provisions arising out of the Constitution of Ukraine and/or duplicating them, including those that in one way or another relate to persons with disabilities.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to the Constitution of Ukraine, citizens recognised by court as incapable shall not have the right to vote. As with the right to vote, the right to stand for elections is linked to the legal capacity of a respective person. Persons under full or partial guardianship lose their right to vote and be elected. Such restrictions are usually formed on the basis of a court decision declaring a respective person incapable.

3. How many members of parliament have declared some form of disability?

No data.

4. How many persons with disabilities hold ministerial positions?

No data.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

Ukraine had adopted in 2012 the National Action Plan for the implementation of the Convention on the Rights of Persons with Disabilities to 2020, approved by the Resolution of the Cabinet of Ministers No. 1393-r dated 23 November 2015. This Plan also aims to facilitate the implementation by persons with disabilities of rights regarding the access of people with disabilities to elections.

Campaign materials and/or electoral materials are not systematically accessible to persons with disabilities. However, the Law on Sign Language had been adopted in 2015, recognizing sign language as an official means of communication and the Law of Ukraine On Elections of Members of Parliament of Ukraine contains

provisions, that obliges the Central Election Commission to ensure voting for voters with visually impairments by producing stencils for election ballots using the Braille method at the rate of two stencils per each regular polling station. For special polling stations, such stencils may be produced at the request of the District Election Commission.

39. UNITED KINGDOM / ROYAUME-UNI

1. Specific legislation with regard to the political rights and participation of persons with disabilities

There is a general framework for equal rights for protected equality groups. The [Equality Act 2010](#), harmonised domestic discrimination law and re-stated the principles of previously enacted legislation, including the [Disability Discrimination Act 1995](#). It aims to strengthen and streamline protection from discrimination, extending the scope of protection to areas beyond the field of employment while retaining specific provisions where a different approach is considered justified, and in order to promote equality. The *Equality Act* does not apply in Northern Ireland, where the *Disability Discrimination Act* still applies.

In relation to disability, discrimination arising from a disability is a new provision which makes it unlawful to treat a disabled person unfavourably not because of the person's disability itself but for a reason that arises from, or in consequence of their disability.

Electoral law in the UK is complex and spread across many pieces of legislation. Electoral law allows for assistance for voters with disabilities in various ways. A returning officer must supply each polling station with at least one large version of the ballot paper to assist voters that are partially sighted. A large-print version of the ballot paper should be clearly displayed inside the polling station and a copy can be given to voters to take with them into the polling booth. A voter cannot vote on the large-print version, but it can be used for reference.

The polling station must also be supplied with a tactile voting device for visually impaired voters to vote unaided. This is a device which will hold the ballot paper in place without damaging it to allow a partially sighted or blind voter or a voter with limited dexterity to mark their ballot paper without the need for help. The assisted voting procedure allows for a disabled voter to vote with the assistance of the presiding officer (the official responsible for the polling station) or a companion in the polling station. If a partially sighted, blind or otherwise disabled voter requests the assistance of the presiding officer to mark their ballot paper, the presiding officer must mark the ballot as directed by the voter.

If a disabled voter is accompanied by a companion and wants to vote with the assistance of the companion the voter must seek the permission of the presiding officer at the polling station. The companion must also make a written declaration that they are a qualified person and that they have not assisted more than one other voter.

A requirement in the *Representation of the People Act 1983* placed an obligation on local authorities to designate as polling stations only places which are accessible to disabled electors, so far as is reasonable and practicable. Scope, a disability charity, conducted surveys at the 1992 and 1997 and reported that this requirement was not being met. The 1997 survey which covered 1,272 polling stations in 303 constituencies revealed that 94 per cent of polling stations had one or more access problems, 82 per cent had steps with no ramps and 46 per cent had no ballot box placed at an accessible level. In addition, the *Electoral Administration Act 2006* placed a requirement on local authorities to review the accessibility of all polling stations to all disabled voters. This was to ensure every polling place, and prospective polling place, for which it is responsible to be accessible to disabled voters in so far 'as is reasonable and practicable'.

Elections are administered at local authority level in the UK and it is the responsibility of the relevant council to designate polling places within their area and to keep these under review. In designating polling places, the council must have regard to accessibility for disabled voters. If an elector is unable to enter the polling station because of physical disability, the Presiding Officer may take the ballot paper to the elector.

These issues are analysed in more detail by the *Polls Apart* survey published by Scope. The latest edition – [Polls Apart 5](#) – was compiled after the 2010 general Election.

2. Is the right to vote and be elected linked to legal capacity?

Voting

No.

There are four categories of legal incapacity to vote and therefore the following are prevented from registering to vote:

peers who are Members of the House of Lords;

convicted prisoners;

convicted offenders detained in a mental hospital; those found guilty of certain corrupt or illegal electoral practices (such as personation or corrupt applications for postal or proxy votes).⁴⁴

Prisoners who are on remand and have not been convicted are entitled to vote under the provisions of the *Representation of the People Act 2000*.

A lack of mental capacity is not a legal incapacity to vote in the UK other than those convicted offenders detained at a mental hospital. The *Electoral Administration Act 2006* abolished the common law rule which rendered people unable to vote on the basis of mental incapacity. However, while electors with any level or no level of mental capacity may be registered to vote, the decision as to whether and how to vote at an election must be made by the elector themselves and not by any other person on their behalf.

Candidates

Yes.

There is a common law disqualification for election to Parliament relating to mental health. The terminology surrounding this is archaic and would now be deemed inappropriate and certainly does not fit into the terminology for mental illness in use today. The common law situation is that 'idiots' are disqualified from seeking election to Parliament and 'lunatics' are disqualified in their non-lucid intervals.

The same distinction used to be used to disqualify people from voting. This was abolished in 2006 (as mentioned above).

In January 2010, the Speaker's Conference on Parliamentary Representation recommended that section 141 of the *Mental Health Act 1983* should be repealed. Under section 141, Members of Parliament detained on grounds of mental illness may have had to vacate their seat, although in practice no seats were vacated under this provision. The provision was repealed by the *Mental Health Discrimination Act 2013*.

Physical disability is not a bar to seeking election.

3. Disabled MPs and Ministers

In terms of disabled MPs, we do not collect data on this and I have not been able to find any external source that does.

There is some media coverage that suggests the number of disabled MPs before the 2015 election was 'a handful' and that because of retirements this has fallen further:

[Why do we have so few disabled MPs?](#)

[New parliament sees number of disabled MPs plunge](#)

4. Measures taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations.

The Speaker's Conference on Parliamentary Representation, which was convened in 2008, made a number of recommendations about supporting disabled candidates and Members. [Library Briefing Paper 6181](#) gives further details about the background to the establishment of the Conference; the notes below provide information about the recommendations relating to the disabled and action taken since the Conference's final report was published.

A number of the Conference's final recommendations were related to increasing the number of disabled candidates. The Conference looked at the political parties' selection processes and recommended that ...all political parties appoint national and/or regional community champions for women, and people from BME and LGBT communities, and disabled people. The champions' remit should include supporting individuals from those communities in finding and sustaining a suitable role within the party. Consideration should also be given to formalising strategies for talent spotting within parties and within the wider community. (Paragraph 79)⁴⁵

The Conference also made a number of recommendations about the need for both Houses of Parliament to support disabled Members. The responses from the House of Commons Management Board and the political parties were published in a Special Report of the Conference on 9 March 2010.⁴⁶

The Government held a [public consultation](#) on access to elected office for disabled people in early 2011. In September 2011 the Government published a summary of responses to the consultation which included the Government's response:

⁴⁴ Electoral Commission, *Managing electoral registration in Great Britain Guidance for Electoral Registration Officers*, paragraph 5.1, part B, page 10

⁴⁵ Speaker's Conference on Parliamentary Representation, final report HC 239 2009-10

⁴⁶ Speaker's Conference (on Parliamentary Representation), *Responses to the Speaker's Conference (on Parliamentary Representation: Final Report of Session 2009-10*, 9 March 2010, HC 449 2009-10

The government is committed to equality for disabled people and an important part of restoring trust is to open up our democracy and ensure that our political system better reflects the people it serves. Disabled people are currently under-represented in public life, despite there being over 10 million disabled people in the UK.

The consultation document put forward six proposals as suggested ways of delivering changes which could support more disabled people into elected positions. These were:

Proposal 1: Government should work more closely with political parties, the Local Government Association (LGA) and disability organisations to develop focused awareness raising.

Proposal 2: Work with political parties, the Local Government Association (LGA) and disabled people's organisations to develop a cross-party Ambassadors programme.

Proposal 3: Provide training and development opportunities aimed at supporting disabled people through the route to political participation.

Proposal 4: Establish an Access to Elected Office Fund to support disability related costs.

Proposal 5: Work with political parties to analyse their existing disability access policies and cascade and promote any good practice.

Proposal 6: Promote and explain legal obligations that apply to political parties, e.g. develop a short guide, website materials and/or a toolkit to support local authorities and political parties to fulfil their duties under the Equality Act.

Following the consultation the government intends to take forward all of the proposals, with the exception of Proposal 2.⁴⁷

There was a debate on Parliamentary representation and the recommendations of the Speaker's Conference on 12 January 2012.⁴⁸ The then Minister for Equalities, Lynne Featherstone, responded to the debate:

The recommendations of the access to elected office for disabled people strategy—a number of Members referred to access to public office—are being taken forward. The public consultation ran from February to May 2011 and sought views on a range of policy proposals. The Government published their response on 13 September, setting out our intention to take forward five of the six proposals. We are currently working with political, disability and other stakeholders to take forward the proposals, which include: the establishment of a dedicated fund to help individual candidates with disability-related costs; new training and development opportunities; proposals to raise awareness; and work with political parties to share good practice on disability and explain legal obligations. We will make a further announcement relatively soon on how the funding is to be distributed.⁴⁹

On 9 July 2012 the Government announced that there would be funding to support disabled candidates:

The Parliamentary Under Secretary of State for Equalities and Criminal Information Lynne Featherstone): The government is today launching a £2.6 million fund to support disabled people who wish to stand for elected office. This proposal forms part of the Government's strategy to provide support for disabled people - the Access to Elected Office Strategy. Following public consultation, the Strategy has been developed by the Home Office, working with the Cabinet Office and the Department for Work and Pensions.

Disabled people are under-represented in public life, as the Speaker's Conference report and the Parliamentary debate on 12 January recognised. Following public consultation, the Government last year published proposals to provide extra support for disabled people who wish to stand for elected office. The Fund we are launching today will support disabled people with some of the additional costs that a disabled person may face in standing for elections, compared to a non-disabled person.

This will not, however, replace existing obligations for parties, which is why I have published guidance for political parties on their legal responsibilities under the Equality Act 2010, particularly on the reasonable adjustments they should make for disabled people.

The Fund will be open until March 2014 and will be available to support disabled people seeking elected positions in the following polls, including by-elections: Police and Crime Commissioners; English local and English mayoral; Greater London Authority; and UK Parliament. The impact of the fund and the strategy overall will be evaluated to inform any decision about any further support beyond the current spending period. We will also continue to work with colleagues in the Devolved Administrations to share our learning from this strategy. The fund will be complemented by an introductory online training course on standing for elections, launched today. It will be of interest to anyone without previous experience who wishes to stand for elections but is aimed particularly at disabled people. It includes contributions from disabled politicians and others to encourage disabled people to stand for elected office.

As I have already announced to the Speaker in my letter of 16 March, I am also pleased to say that, as part of the Access to Elected Office's commitment to provide support to disabled people, I am funding up to three

⁴⁷ *Access to elected office for disabled people: a response to the consultation*, Home Office, 2011

⁴⁸ HC Deb 12 January 2012 c 403

⁴⁹ *ibid*, c440

additional placements specifically for disabled people as part of the Speaker's Parliamentary Placement Scheme.

Further details of all these initiatives can be found on the Home Office website at <http://homeoffice.gov.uk/equalities/equality-public-political/>⁵⁰

The Access to Elected Office Fund was seen as a pilot which is now being assessed. On 21 April 2016 the Government said it would make an announcement on the future of the fund in due course.⁵¹

Replies to ECPRD request 2956 sent by the House of Commons

1. Does the law on elections in your country has any provisions for the facilitation and assistance of the voting for people with disability? If yes, please explain them.

There are a number of legal duties concerning equality which require those involved with the administration of elections to make provision for and assist those with both physical and learning disabilities. The *Representation of the People Act 2000* allows disabled voters, and those voters who are unable to read, to have a companion to assist them when voting. The *Equality Act 2010* created the Public Sector Equality Duty, requiring public authorities to encourage participation by disabled people in public life. The *Electoral Administration Act 2006* places a duty on local electoral administrators to encourage participation in the electoral process.

Registration

In order to vote, an elector has to be included on the electoral register. The UK Electoral Commission publishes [guidance](#) for Electoral Registration Officers (the administrators who compile and manage the register) and this makes clear that people with learning difficulties or mental health conditions should be included on the register: 5.3 A lack of mental capacity is not a legal incapacity to vote: persons who meet the other registration qualifications are eligible for registration regardless of their mental capacity or lack thereof. Electoral Registration Officers should therefore ensure that persons with learning difficulties or mental health conditions are included in the register of electors.

Learning difficulty

5.4 People with learning difficulties should receive information or other forms of support, if requested, to assist them with their application to register or to enable them to find out more about the electoral system.

Mental health conditions

5.5 A mental health condition is not in itself a legal incapacity to vote and so is not, therefore, a bar to registration. The Electoral Registration Officer should assist, if requested, those who are making an application or who wish to find out more information about the electoral system.

Part I of the [guidance](#) gives practical advice to Electoral Registration Officers about registering people with learning disabilities.

Voting

Voters who have a disability may be accompanied in the polling station and their companion or carer may assist them to vote. Voters with disabilities may also seek the assistance of the presiding officer (the electoral administrator in charge of a polling station) to help them cast their vote.

Parker's Law and Conduct of Elections gives further details:

15.45 If the voter is incapacitated by blindness or other physical disability from voting in the manner prescribed by the relevant set of elections rules, or declares that he is unable to read, the presiding officer must, on the application of the voter, and in the presence of the polling agents or such of them as are in attendance...cause the voter's ballot paper to be marked as directed by him, and placed in the ballot box...If any polling agent discloses the information so acquired he is guilty of the offence described in para 15.67 below. The name and number on the register of electors of every elector whose vote is so marked, and the reason why it is so marked must be entered on a list called 'the list of votes marked by the presiding officer'...

A voter with a disability may also bring a companion to the polling station to vote on their behalf. *Parker's Law and Conduct of Elections* again gives further details:

15.46-15.47 Where a voter who is accompanied by a companion applies to the presiding officer to be allowed on the grounds of blindness, other disability or inability to read, to vote with the assistance of his companion, the presiding officer must require him to declare orally or in writing whether he is so incapacitated by his blindness or other disability (or his inability to read) as to be unable to vote without assistance...

Electors may also cast their votes [by post](#) or [by proxy](#).

⁵⁰ HC Deb 9 July 2012 c7WS

⁵¹ HL 782321 April 2016

Resources

The Electoral Commission has published a [factsheet](#) on voting and the disabled, and there is also a section on its website about [accessibility](#). The Electoral Commission has also published an [easy read guide](#) to voting for people with low literacy or learning difficulties. The guide explains that voters can seek help from electoral administrators in the polling station. The Commission has looked at the issue of access for disabled voters and has produced a good practice guide for electoral administrators – [Equal access to electoral procedures: good practice guidance](#). The guidance covers wider issues than access for disabled people (such as access for minority ethnic groups) and it includes a review of the legislative background.

Prior to the 2015 general election, the Government published an [easy read guide](#) to voting and registering to vote, produced by the charity Mencap, which represents and supports people with learning disabilities. Mencap also produced [easy read versions of the manifestos](#) of the political parties contesting the 2015 general election. The Electoral Commission also published a joint factsheet with Mencap for the 2015 general election to remind voters with disabilities of their rights.

The organisation [United Response](#), a charity working across England and in Wales supporting people with learning disabilities, mental health needs or physical disabilities, ran a three year project from 2007 called ‘[Every Vote Counts](#)’ with funding from the Electoral Commission. The United Response website explained that the project:

...aims to give people with learning disabilities the opportunity to learn about how politics affects them and their everyday lives.

It also aims to help people understand the democratic process, and become more involved so that those who are able, are confident to vote.⁵²

The project produced [guidance on accessibility](#) to encourage politicians and other people in politics to make information easy to read and accessible for people with learning disabilities. United Response published their [Easy News Party Manifesto Special](#), outlining the highlights of the manifestos of the different political parties, before the 2015 general election.

On 9 July 2012 the last Government announced that there would be funding to support disabled candidates and published guidance for political parties on their responsibilities under the *Equality Act 2010*. This was a pilot scheme for a limited period.

The government is today launching a £2.6 million fund to support disabled people who wish to stand for elected office. This proposal forms part of the Government’s strategy to provide support for disabled people - the Access to Elected Office Strategy. Following public consultation, the Strategy has been developed by the Home Office, working with the Cabinet Office and the Department for Work and Pensions.

Disabled people are under-represented in public life, as the Speaker’s Conference report and the Parliamentary debate on 12 January recognised. Following public consultation, the Government last year published proposals to provide extra support for disabled people who wish to stand for elected office. The Fund we are launching today will support disabled people with some of the additional costs that a disabled person may face in standing for elections, compared to a non-disabled person.

This will not, however, replace existing obligations for parties, which is why I have published guidance for political parties on their legal responsibilities under the Equality Act 2010, particularly on the reasonable adjustments they should make for disabled people.

The Fund will be open until March 2014 and will be available to support disabled people seeking elected positions in the following polls, including by-elections: Police and Crime Commissioners; English local and English mayoral; Greater London Authority; and UK Parliament. The impact of the fund and the strategy overall will be evaluated to inform any decision about any further support beyond the current spending period. We will also continue to work with colleagues in the Devolved Administrations to share our learning from this strategy.⁵³

The [Access to Elected Office for Disabled People Fund](#) was later extended to cover the period up to 31 March 2015 and offered individual grants of between £250 and £40,000 to disabled people who were planning to stand for election. The money was provided to help with the additional costs, such as extra transport or sign-language interpreters, that a disabled candidate may face in standing for election as a local parish or town councillor.

2. Does the law on elections in your country provide that there are mandatory quotas/percentage of candidates on the party lists for people with disability? If yes, what is the quota/percentage?

There are no mandatory quotas for the selection of candidates with disabilities in the United Kingdom.

⁵² United Response, *Every Vote Counts*

⁵³ HC Deb 9 July 2012 c7WS

40. CANADA

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

The Government of Canada provides information outlining the rights of persons with disabilities and links to the legislation that addresses these issues.

There are several laws relevant in this case. Two of these are the *Canadian Charter of Rights and Freedoms* and the *Canadian Human Rights Act*:

“Canada seeks to reduce barriers and increase opportunities for people with disabilities, to ensure their full participation in our society. Our nation has a strong legislative framework that guarantees the equal rights of people with disabilities. In addition, a range of federal programs support the lives of Canadians with disabilities.”

The following information is provided about the *Canadian Human Rights Act* at the webpage [Rights of people with disabilities](#):

“The [Canadian Human Rights Act](#) of 1977 protects Canadians from discrimination when they are employed by or receive services from:

- the federal government;
- First Nations governments; and
- private companies that are regulated by the federal government like banks, trucking companies, broadcasters and telecommunications companies.

People can turn to the *Canadian Human Rights Act* to protect themselves against harassment or discrimination that is based on one or more of the 11 [grounds of discrimination](#). The Act prohibits discrimination based upon physical or mental disability.”

The rights of Canadians are laid out in [The Canadian Charter of Rights and Freedoms](#).

On the website of the Department of Justice, there is a section explaining Charter rights. This section includes information on Equality rights.

[Rights and Freedoms in Canada](#)

[Equality rights](#)

“Equality rights are at the core of the *Charter*. They are intended to ensure that everyone is treated with the same respect, dignity and consideration (i.e. without discrimination), regardless of personal characteristics such as race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability, sexual orientation, marital status or citizenship.

- This usually means that everyone should be treated the same by law and that everyone is entitled to the same benefits provided by laws or government policies. However, the *Charter* does not require that government always treat people in exactly the same way. For example, sometimes protecting equality means that rules or standards must be reasonably adapted to take account of people’s differences, including by allowing people to observe different religious holidays without losing their job, or putting specific supports in place to enable people with visual disabilities or hearing impairments to access government services.
- It is also constitutional to create special programs aimed at improving the situation of individuals who are members of groups that have historically experienced discrimination in Canada, including on the basis of the grounds

Additionally, amendments to the [Canada Elections Act](#) have made access to the vote and to the electoral process easier to those with disabilities. Significant improvement to [the accessibility of the vote](#) and its administration were made beginning in 1992 with the enactment of “*An Act to amend certain Acts with respect to persons with disabilities*”.

See question 5 for more information on the *Canada Elections Act*.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

The right to vote and the right to be elected are not linked to legal capacity.

On the website of the Department of Justice in the section explaining *Charter* rights, democratic rights are discussed. These democratic rights include voting and standing for election. According to the *Charter*, all Canadian citizens have the right to vote and to seek election.

[Democratic rights](#)

- Every Canadian citizen has the right to vote in elections for Members of Parliament and representatives in provincial and territorial legislatures, and to seek election themselves, subject to certain limited exceptions (for example, minimum voting age), which have been found to be reasonable and justifiable. For more information about voting in a federal election, please see the relevant legislation:

[Canada Elections Act](#)

“Every person who is a Canadian citizen and is 18 years of age or older on polling day is qualified as an elector.”

[Canada Elections Act](#), SC 2000, c 9, s 3

3. How many members of parliament have declared some form of disability?

You will find below the Members of Parliament, past and present, who are identified as disabled:

[Steven John Fletcher](#)

Person with restricted mobility (First quadriplegic elected to the House of Commons)

[Manon Perreault](#)

Person with restricted mobility (paraplegic)

[Carla Qualtrough](#)

Visually impaired since birth

4. How many persons with disabilities hold ministerial positions?

You will find the Members of Parliament who hold, or have held, ministerial positions:

[Steven John Fletcher](#)

Person with restricted mobility (First quadriplegic elected to the House of Commons)

**Minister of State (Transport) (2011.05.18 - 2013.07.14)

**Minister of State (Democratic Reform) (2008.10.30 - 2011.05.17)

[Carla Qualtrough](#)

Visually impaired since birth

**Minister of Sport and Persons with Disabilities (2015.11.04 – present)

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

One key piece of legislation, the [Canada Elections Act](#) has been revised several times to make the voting process more accessible for those with disabilities. Legislation now requires buildings be modified, support for attendant care is provided, and staff is given education in the areas of disability and accommodation.

The [Canadian Human Rights Tribunal \(CHRT\)](#) has also heard cases which have positively affected accessibility to the electoral process. After the 2010 federal election, the CHRT found in [favour of a wheelchair user](#), which resulted in Elections Canada making all of their polling stations accessible.

Elections Canada, which oversees the electoral process, has an [Accessibility Policy and Service Offering for People with Disabilities](#). Changes and improvements to accessibility include the setup of mobile polling stations for hospitals and long-term care facilities. There is also a room to room service for patients who are unable to move. Voters are also able to vote by mail or participate in advance voting. Elections Canada's information is available in the following formats:

- Large prints
- Braille
- Audio
- Sign language in both official languages, English and French (ASL/LSQ)

Information is also available in 31 heritage languages and 12 aboriginal languages. Interpretation services for telephone inquiries are available in 112 languages.

There are many organisations that fight for the rights of people with disabilities. One example is the Canadian Disability Rights Council, which used the [Canadian Charter of Rights and Freedoms](#) to challenge the exclusion of people with mental disabilities living in psychiatric facilities and institutions from voting in federal elections. In 1988, the Federal Court of Canada ruled that the restriction was arbitrary and did in fact contravene the *Charter*. The major federal political parties also supported the removal of the restriction. In 1993, the *Canada Elections Act* was amended to reflect the court decision.

41. ISRAEL

1. Does your country have specific legislation with regard to the political rights and participation of persons with disabilities? Could you specify what is covered by this legislation and what guarantees are given? Should your parliament have replied to Request 2956 we would be grateful if you could indicate whether there have been legislative changes since 2015.

No apart from the Election to the Knesset Law which anchored the adjustments for people with disabilities to vote in election. Person with disabilities are entitled to vote and be elected to the Knesset without restriction.

2. Is the right to vote and the right to be elected linked to legal capacity? If so, in what way? In case a person has been deprived of his/her right to vote and be elected, is this decision re-assessed on a regular basis?

According to Basic Law: The Knesset – “Every Israeli citizen of or over the age of eighteen years shall have the right to vote in elections to the Knesset, unless a court has deprived him of that right by virtue of any Law” “Every Israeli citizen who on the day of the admission of a candidates list containing his name is twenty-one years of age or over shall have the right to be elected to the Knesset, unless a court has deprived him of that right by virtue of Law, or he has been sentenced, by a final judgment, to a penalty of actual imprisonment for a term exceeding three months and on the day of submission of the list of candidates seven years have not yet passed since the day when he terminated his period of imprisonment, unless the chairman of the Central Elections Committee has determined that the offence of which he has been convicted, in accordance with the circumstances, does not bear moral turpitude”.

3. How many members of parliament have declared some form of disability?

There is no need or obligation to declare a disability but the Knesset Secretary General will ask MK's at the beginning of a Knesset term about a disability in order to adjust plenum sits and accessories – at the moment 5 Mk's have asked for adjustments.

4. How many persons with disabilities hold ministerial positions?

We are not aware of a minister with disability.

5. What concrete measures are taken so as to ensure the participation of persons with disabilities in public and political life, including in political parties, non-governmental organisations and associations? Are campaign materials and/or electoral materials systematically accessible to persons with disabilities (easy-to-read versions, braille, subtitles, etc.)?

The Equal Rights for People with Disabilities Law, 5758-1998 in its 4 main section: Employment, Public Accommodations, Public Transportation and Commission for Equal Rights of Persons with disabilities, as well as Accessibility Regulations regarding education, construction, infrastructure, insurance, public places, service, communications, sites and transportation; set up concrete measures for the participation of persons with disability in public and political life.