



Mobile EU citizens Directives

European Disability Forum Position Paper
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Recast of Council Directives on the right to vote and stand as candidate of mobile EU citizens in European and municipal elections



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Table of Contents

Introduction.....	2
Executive summary	3
EDF proposed amendments	4
Council Directive concerning European Parliament elections	4
Council Directive concerning municipal elections	12
Further explanations	19
Disparities concerning voting rights of persons with disabilities.....	19
Provision of information	20
Specific means of voting	21
Acknowledgements and additional resources.....	23
Document credits	24

Introduction

According to the European Union (EU) Treaties, EU citizenship provides for the right to vote and stand as candidate in municipal and European Parliament elections regardless of whether the EU citizen is a national of the EU country in which they reside. These political rights of non-national EU citizens (known as mobile EU citizens) must be ensured under the same conditions as nationals. These mobile citizens may choose whether to vote for the EU Parliament elections in their country of residence or in their home country, as long as they vote only once.

In November 2021, the European Commission launched two proposals to revise [Council Directive 93/109/EC](#) and [Council Directive 94/80/EC](#) which set out the arrangements for the above mentioned political rights of mobile EU citizens for the European and the municipal elections respectively. The aim is to update certain provisions of the two Directives and facilitate the exercise of these political rights by mobile EU citizens¹.

The [proposals for a Council Directive on the European Parliament elections](#), and [for the municipal elections](#) must be agreed solely by the Council of the EU, whereas the European Parliament will have a consultative role. It is also worth mentioning that the Parliament has recently proposed a [new EU electoral law](#) which the Council must also consider.

¹ You can read a [summary of the proposal concerning the European Parliament elections](#), and a [summary of proposal concerning the municipal elections](#).

About the European Disability Forum

The [European Disability Forum](#) is an independent NGO that advocates for the rights of 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisation of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

Executive summary

Acknowledging that the proposed Council Directives will not affect the voting rights specified by Member States for their national citizens, EDF proposed amendments aim at:

- **Ensuring that the voting rights of persons with disabilities will prevail**, whether these are recognised by the home Member State or the Member State of residence. This will prevent mobile EU citizens with disabilities from losing political rights when moving to another EU country, and Member States complying with article 29 of the United Nations Convention on the Rights of Persons with Disabilities (UN CPRD) from discriminating non-nationals with disabilities who should be under the same conditions as nationals with disabilities.
- **Providing to mobile EU citizens with disabilities the same specific arrangements to facilitate their right to vote** as those put in place for nationals with disabilities in European and municipal elections, **including information about them**.
- **Strengthening the proposed requirement for accessible information by referring to the European Accessibility Act**, which contains accessibility requirements concerning the provision of (digital and non-digital) information. This will ensure practical implementation and legal coherence.
- **Clarifying the “clear and plain language” requirement of the information provided to all mobile EU citizens by specifying the level of complexity** using as a basis the Council of Europe Common European Framework of Reference for Languages. This approach has already been used in the European Accessibility Act and will benefit all non-native voters.

Additional information and justification on EDF’s position can be found after the suggested amendments in the chapter of [Further explanations](#). A key resource on the situation of the political rights of persons with disabilities in the EU can be found in the [EDF 6th Human Rights Report on political participation](#).

EDF proposed amendments

Council Directive concerning European Parliament elections

Article 3. Conditions governing the right to vote and stand as a candidate

Commission proposal	EDF proposal
<p>The following persons shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State of residence unless deprived of those rights pursuant to Articles 6 and 7:</p> <p>(a) the person who, on the reference date is a Union citizen within the meaning of Article 20 (1) TFEU;</p> <p>(b) the person who, on the reference date is not a national of the Member State of residence, but satisfies the same conditions in respect of the right to vote and to stand as a candidate as that State imposes by law on its own nationals.</p>	<p>The following persons shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State of residence unless deprived of those rights pursuant to Articles 6 and 7:</p> <p>(a) the person who, on the reference date is a Union citizen within the meaning of Article 20 (1) TFEU;</p> <p>(b) the person who, on the reference date is not a national of the Member State of residence, but satisfies the same conditions in respect of the right to vote and to stand as a candidate as that State imposes by law on its own nationals, and</p> <p><i>(c) persons with disabilities under total or partial legal guardianship who can exercise the right to vote and to stand as a candidate in elections to the European Parliament in their home Member State or in the Member State of residence under the same conditions as nationals of that State.</i></p>
<p>Justification: To ensure that persons with disabilities with these political rights in their country of origin will not lose them when moving to another Member State, and that countries which uphold these political rights for their</p>	

nationals with disabilities legally incapacitated will also guarantee the same rights to non-nationals “under the same conditions”.

Article 6. Ineligibility

Commission proposal	EDF proposal
<p>1. Union citizens who reside in a Member State of which they are not nationals and who, through an individual judicial decision or an administrative decision provided that the latter can be subject to judicial remedies, have been deprived of their right to stand as a candidate under either the law of the Member State of residence or the law of the home Member State, shall be precluded from exercising that right in the Member State of residence in elections to the European Parliament.</p>	<p>1. Union citizens who reside in a Member State of which they are not nationals and who, through an individual judicial decision or an administrative decision provided that the latter can be subject to judicial remedies, have been deprived of their right to stand as a candidate under either the law of the Member State of residence or the law of the home Member State, shall be precluded from exercising that right in the Member State of residence in elections to the European Parliament.</p> <p><i>Decisions on deprivation of the right to stand as candidate due to legal incapacitation of EU citizens with disabilities in their home Member State shall not make them ineligible from standing as candidate in the elections to the European Parliament in their Member State of residence provided that the law allows it for its own nationals under the same conditions.</i></p>
<p>Justification: Countries which guarantee the right to stand as candidate to all persons with disabilities without exemptions should not be forced to discriminate non-nationals because of a legal incapacitation decision at their home country.</p>	

Article 7. Disqualification of voting

Commission proposal	EDF proposal
<p>1. The Member State of residence may check whether the Union citizens who have expressed a desire to exercise their right to vote there have not been deprived of that right in the home Member State through an individual civil law or criminal law decision.</p>	<p>1. The Member State of residence may check whether the Union citizens who have expressed a desire to exercise their right to vote there have not been deprived of that right in the home Member State through an individual civil law or criminal law decision.</p> <p><i>Decisions on deprivation of the right to vote due to legal incapacitation of EU citizens with disabilities in their home Member State shall not disqualify them from voting in the elections to the European Parliament in their Member State of residence provided that the law allows it for its own nationals.</i></p>
<p>Justification: Countries which guarantee the right to vote to all persons with disabilities without exemptions should not be forced to discriminate non-nationals because of a legal incapacitation decision at their home country.</p>	

Article 12. Provision of information. Paragraph 2

Commission proposal	EDF proposal
<p>2. The Member States shall ensure that the authorities designated pursuant to paragraph 1, shall directly and individually communicate to Union voters and Union nationals entitled to stand as candidates, the following information:</p> <p>(a) the status of their registration;</p> <p>(b) the date of the election and how and where to vote;</p>	<p>2. The Member States shall ensure that the authorities designated pursuant to paragraph 1, shall directly and individually communicate to Union voters and Union nationals entitled to stand as candidates, the following information:</p> <p>(a) the status of their registration;</p> <p>(b) the date of the election and how and where to vote;</p>

(c) the relevant rules on voter and candidate rights and obligations including interdictions and incompatibilities and sanctions for violating electoral rules, particularly those pertaining to multiple voting;
 (d) means of obtaining further information relating to the organisation of the election including the list of candidates.

(c) the relevant rules on voter and candidate rights and obligations including interdictions and incompatibilities and sanctions for violating electoral rules, particularly those pertaining to multiple voting;
 (d) means of obtaining further information relating to the organisation of the election including the list of candidates **and the specific measures to facilitate the exercise of the right to vote to particular groups of voters, such as persons with disabilities or voters who face additional difficulties to participate in the elections to the European Parliament.**

Justification:

Member States across the EU have set up a wide range of arrangements to facilitate the exercise of the right to vote to persons with disabilities and other groups such as older people and people living in residential institutions or who are hospitalised. Such arrangements include the provision of mobile ballot boxes, possibility of changing polling stations, assistive tools like Braille kits or tactile stencils to choose the vote independently, etc. Non-nationals may find even more difficulties in knowing what support is available. Therefore, having a specific requirement to inform about these will make mobile EU citizens aware of their availability in their country of residence and will, indirectly, encourage public authorities to improve the support to all voters with disabilities.

Article 12. Provision of information. Paragraph 3

Commission proposal	EDF proposal
3. The information on conditions and detailed rules for registration as a voter or candidate in elections to the European Parliament and the information referred to in paragraph 2 shall be provided in clear and plain language	3. The information on conditions and detailed rules for registration as a voter or candidate in elections to the European Parliament and the information referred to in paragraph 2 shall be provided in clear and plain language without

	<p>exceeding a level of complexity superior to level B1 (intermediate) of the Council of Europe’s Common European Framework of Reference for Languages.</p>
<p>Justification: Wording like “plain and clear” is not precise enough. To improve this provision and bring legal certainty, it is recommended to set out a requirement which is factually testable. Thus, and taking inspiration from the European Accessibility Act which has already used this approach, it is proposed to refer to the internationally known Council of Europe Common Framework of Reference for Languages to specify what the legislation means by “plain and clear”. Besides, having an intermediate level of complexity will not only be extremely useful for non-native mobile voters, but also for other groups, including certain persons with disabilities and older people, and people with low education level, who will find the information more understandable.</p>	

Article 12. Provision of information. Paragraph 4

Commission proposal	EDF proposal
<p>4. Member States shall ensure that information on conditions and detailed rules for registration as a voter or candidate in elections to the European Parliament and information referred to in paragraph 2 is made accessible to persons with disabilities and older persons using appropriate means, modes and formats of communication.</p>	<p>4. Member States shall ensure that information on conditions and detailed rules for registration as a voter or candidate in elections to the European Parliament and information referred to in paragraph 2 is made accessible to persons with disabilities and older persons by applying accessibility requirements laid down in Annex I of Directive (EU) 2019/882 and by using appropriate means, modes and formats of communication such as sign language, Braille or easy-to-read format.</p>
<p>Justification: In the past different EU legislation required accessibility for persons with disabilities, but due to lack of awareness and different interpretation, these provisions were never fully implemented. The European Accessibility Act includes a set of accessibility requirements to be</p>	

supported by harmonised European standards. These legal accessibility requirements and supporting standards bring legal certainty to the public and private sectors and persons with disabilities alike. The Accessibility Act sets out accessibility requirements for websites, mobile applications, software, printed information, and digital identification methods, among others, and it specifies in its article 24(2) that they can be used for other EU harmonised legislation. Thus, for the provision of information, it is essential that this Directive refers to the Accessibility Act (which is also totally aligned with the Web Accessibility Directive covering the public sectors' websites and mobile apps). Complementary to accessibility, the Commission proposal refers to "appropriate means, modes and formats of communication", and to facilitate implementation it is important to explicitly mention the main ones, meaning (national) sign languages, Braille and [easy-to-read](#) format for people with intellectual disabilities.

Article 14. Specific means of voting

Commission proposal	EDF proposal
<p>Member States that provide for the possibilities of advance voting, postal voting, and electronic and internet voting, in elections to the European Parliament shall ensure the availability of those voting methods to Union voters under similar conditions as the ones applicable to their own nationals.</p>	<p>Member States that provide for the possibilities of advance voting, postal voting, and electronic and internet voting and specific arrangements for persons with disabilities, in elections to the European Parliament shall ensure the availability of those voting methods to Union voters under similar conditions as the ones applicable to their own nationals.</p>
<p>Justification: EU Member States have set up a wide range of voting arrangements to facilitate the exercise of the right to vote to persons with disabilities: from alternative and advance means of voting (such as advance voting, changing polling stations, mobile ballot boxes), to the use of assistive tools (such as Braille guides and tactile stencils for blind and partially sighted), sign language support, easy-to-read guides, magnifying glasses, lamps, writing utensils, etc.). Thus, it is in the spirit of this legislation that mobile EU citizens have access to these specific arrangements as nationals with disabilities.</p>	

Annex III

Commission proposal	EDF proposal
I have not been deprived of the right to stand as a candidate in my home Member State.	I have not been deprived of the right to stand as a candidate in my home Member State for reasons other than legal incapacitation due to a disability.
<p>Justification: There are 8 European Member States which uphold the right to stand as candidate to the European Parliament elections to all persons with disabilities, including those who have been legally incapacitated. Given that the EU and all Member States have ratified the UN Convention on the Rights of Persons with Disabilities, this Directive should not penalise countries which have fulfilled their obligations as for Article 29 by forcing them to deprive of the right to stand for office to people who, if nationals, would be entitled to run as candidates.</p>	

Recital 29

Commission proposal	EDF proposal
<p>The Member States, by ratifying, and the Union, by concluding, the United Nations Convention on the Rights of Persons with Disabilities have committed themselves to ensure compliance with that Convention. In order to support inclusive and equal electoral participation for persons with disabilities, arrangements for Union citizens residing in a Member State of which they are not nationals to exercise the right to vote and to stand as a candidate there in elections to the European Parliament should have due regard to the needs of citizens with a disability and older citizens.</p>	<p>The Member States, by ratifying, and the Union, by concluding, the United Nations Convention on the Rights of Persons with Disabilities have committed themselves to ensure compliance with that Convention including on Article 29 on Participation in political and public life. In order to support inclusive and equal electoral participation for persons with disabilities, accessibility requirements and arrangements for Union citizens residing in a Member State of which they are not nationals to exercise the right to vote and to stand as a candidate there in elections to the European Parliament should have due regard to the needs of citizens with a disability and older citizens. Member States should not</p>

deprive the right to vote and stand as candidate to citizens with disabilities under total or partial legal guardianship who are not nationals and enjoy these rights in their home Member State, nor to deprive them of these rights based on a legal incapacitation decision in their home Member State if such deprivation would impose different conditions as for national citizens under total or partial legal guardianship.

Justification:

This recital should make explicit reference to Article 29 (as the proposal for a Council Directive on municipal elections does), because this is the goal as for the political rights of persons with disabilities. Additionally, the recital should refer not only to the specific arrangements, but also to the accessibility requirements to be incorporated when, for example, providing information to all citizens. Finally, the recital should also lay down the overall principle concerning the right to vote and stand as candidate of persons with disabilities. It is not just a matter of specific arrangements, but legal barriers which prevented 400,000 citizens from voting in the last European elections. Given that these Council Directives will not aim at ensuring the right to vote and stand for election of persons with disabilities in national laws, they should, at the very least, set out a general principle in line with the UN CRPD and make sure that the voting rights ensured in an increasing number of EU countries will always prevail.

Council Directive concerning municipal elections

Article 3. Conditions governing the right to vote and to stand as a candidate

Commission proposal	EDF proposal
<p>The following persons shall have the right to vote and to stand as a candidate in municipal elections in the Member State of residence:</p> <p>(a) the person who on the reference date is a Union citizen within the meaning of the second subparagraph of Article 20(1) TFEU; and</p> <p>(b) the person who on the reference date is not a national of the Member State of residence, but in any event satisfies the same conditions in respect of the right to vote and to stand as a candidate as that State imposes by law on its own nationals.</p>	<p>The following persons shall have the right to vote and to stand as a candidate in municipal elections in the Member State of residence:</p> <p>(a) the person who on the reference date is a Union citizen within the meaning of the second subparagraph of Article 20(1) TFEU and;</p> <p>(b) the person who on the reference date is not a national of the Member State of residence, but in any event satisfies the same conditions in respect of the right to vote and to stand as a candidate as that State imposes by law on its own nationals, and</p> <p><i>(c) persons with disabilities under total or partial legal guardianship who can exercise the right to vote and to stand as a candidate in municipal elections in their home Member State or in the Member State of residence under the same conditions as nationals of that State.</i></p>
<p>Justification: To ensure that persons with disabilities with these political rights in their country of origin will not lose them when moving to another Member State, and that countries which uphold these political rights for their nationals with disabilities legally incapacitated will also guarantee the same rights to non-nationals “under the same conditions”.</p>	

Article 5. Ineligibility

Commission proposal	EDF proposal
<p>1. Member States of residence may provide that Union citizens who, through an individual decision under civil law or a criminal law decision, have been deprived of their right to stand as a candidate under the law of their home Member State_z shall be precluded from exercising that right in municipal elections.</p>	<p>1. Member States of residence may provide that Union citizens who, through an individual decision under civil law or a criminal law decision, have been deprived of their right to stand as a candidate under the law of their home Member State_z shall be precluded from exercising that right in municipal elections.</p> <p><i>Decisions on deprivation of the right to stand as candidate due to legal incapacitation of EU citizens with disabilities in their home Member State shall not make them ineligible from standing as candidate in the municipal elections in their Member State of residence provided that the law allows it for its own nationals under the same conditions.</i></p>
<p>Justification: Countries which guarantee the right to stand as candidate to all persons with disabilities without exemptions should not be forced to discriminate non-nationals because of a legal incapacitation decision at their home country.</p>	

Article 9. Registration as a candidate

Commission proposal	EDF proposal
<p>2. The Member State of residence may also require persons entitled to stand as candidates pursuant to of Article 3 to:</p> <p>(a) state in the formal declaration which they produce in accordance with paragraph 1 when submitting</p>	<p>2. The Member State of residence may also require persons entitled to stand as candidates pursuant to of Article 3 to:</p> <p>(a) state in the formal declaration which they produce in accordance with paragraph 1 when submitting</p>

their application to stand as candidates that they have not been deprived of the right to stand as a candidate in their home Member State;

their application to stand as candidates that they have not been deprived of the right to stand as a candidate in their home Member State **for reasons other than legal incapacitation due to a disability;**

Justification:

Countries which guarantee the right to stand as candidate to all persons with disabilities without exemptions should not be forced to discriminate non-nationals because of a legal incapacitation decision at their home country.

Article 10. Specific means of voting

Commission proposal	EDF proposal
<p>Member States that provide for the possibility for nationals to vote by means of advance voting, postal voting, and electronic and internet voting in municipal elections shall ensure that such means of voting are also available under the same conditions to voters pursuant to Article 3.</p>	<p>Member States that provide for the possibility for nationals to vote by means of advance voting, postal voting, and electronic and internet voting and specific arrangements for persons with disabilities in municipal elections shall ensure that such means of voting are also available under the same conditions to voters pursuant to Article 3.</p>

Justification:

EU Member States have set up a wide range of voting arrangements to facilitate the exercise of the right to vote to persons with disabilities: from alternative and advance means of voting (such as advance voting, changing polling stations, mobile ballot boxes), to the use of assistive tools (such as Braille guides and tactile stencils for blind and partially sighted), sign language support, easy-to-read guides, magnifying glasses, lamps, writing utensils, etc.). Thus, it is in the spirit of this legislation that mobile EU citizens have access to these specific arrangements as nationals with disabilities.

Article 12. Provision of information. Paragraph 2

Commission proposal	EDF proposal
<p>2. The Member States shall ensure that the designated authority pursuant to paragraph 1, shall directly and individually communicate to voters and persons entitled to stand as candidates pursuant to Article 3, the following information:</p> <ul style="list-style-type: none"> (a) the status of their registration, (b) once available, the date of the election and how and where to vote, (c) means of obtaining further information relating to the organisation of the election, including the list of candidates. 	<p>2. The Member States shall ensure that the designated authority pursuant to paragraph 1, shall directly and individually communicate to voters and persons entitled to stand as candidates pursuant to Article 3, the following information:</p> <ul style="list-style-type: none"> (a) the status of their registration, (b) once available, the date of the election and how and where to vote, (c) means of obtaining further information relating to the organisation of the election, including the list of candidates and the specific measures to facilitate the exercise of the right to vote to particular groups of voters, such as persons with disabilities or voters who face additional difficulties to participate in the municipal elections.
<p>Justification: Member States across the EU have set up a wide range of arrangements to facilitate the exercise of the right to vote to persons with disabilities and other groups such as older people and people living in residential institutions or who are hospitalised. Such arrangements include the provision of mobile ballot boxes, possibility of changing polling stations, assistive tools like Braille kits or tactile stencils to choose the vote independently, etc. Non-nationals may find even more difficulties in knowing what support is available. Therefore, having a specific requirement to inform about these will make mobile EU citizens aware of their availability in their country of residence and will, indirectly, encourage public authorities to improve the support to all voters with disabilities.</p>	

Article 12. Provision of information. Paragraph 3

Commission proposal	EDF proposal
3. The information on conditions and detailed rules for registration as a voter or candidate in municipal elections and the information referred to in paragraph 2 shall be provided in clear and plain language.	3. The information on conditions and detailed rules for registration as a voter or candidate in municipal elections and the information referred to in paragraph 2 shall be provided in clear and plain language without exceeding a level of complexity superior to level B1 (intermediate) of the Council of Europe’s Common European Framework of Reference for Languages.
Justification: Wording like “plain and clear” is not precise enough. To improve this provision and bring legal certainty, it is recommended to set out a requirement which is factually testable. Thus, and taking inspiration from the European Accessibility Act which has already used this approach, it is proposed to refer to the internationally known Council of Europe Framework of Reference for Languages to specify what the legislation means by “plain and clear”. Besides, having an intermediate level of complexity will not only be extremely useful for non-native mobile voters, but also for other groups, including certain persons with disabilities and older people, and people with low education level, who will find the information more understandable.	

Article 12. Provision of information. Paragraph 4

Commission proposal	EDF proposal
4. Member States shall ensure that information on conditions and detailed rules for registration as a voter or candidate in municipal elections and information referred to in paragraph 2 is made accessible to persons with disabilities and older persons by using appropriate means, modes and formats of communication.	4. Member States shall ensure that information on conditions and detailed rules for registration as a voter or candidate in municipal elections and information referred to in paragraph 2 is made accessible to persons with disabilities and older persons by applying accessibility requirements laid down in Annex I of Directive (EU)

	2019/882 and by using appropriate means, modes and formats of communication such as sign language, Braille or easy-to-read format.
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Justification:

In the past different EU legislation required accessibility for persons with disabilities, but due to lack of awareness and different interpretation, these provisions were never fully implemented. The European Accessibility Act includes a set of accessibility requirements to be supported by harmonised European standards. These legal accessibility requirements and supporting standards bring legal certainty to the public and private sectors and persons with disabilities alike. The Accessibility Act sets out accessibility requirements for websites, mobile applications, software, printed information, and digital identification methods, among others, and it specifies in its article 24(2) that they can be used for other EU harmonised legislation. Thus, for the provision of information, it is essential that this Directive refers to the Accessibility Act (which is also totally aligned with the Web Accessibility Directive covering the public sectors’ websites and mobile apps). Complementary to accessibility, the Commission proposal refers to “appropriate means, modes and formats of communication”, and to facilitate implementation it is important to explicitly mention the main ones, meaning (national) sign languages, Braille and [easy-to-read](#) format for people with intellectual disabilities.

Recital 26

Commission proposal	EDF proposal
(26) The Member States, by ratifying, and the Union, by concluding, have committed themselves to ensure compliance with the United Nations Convention on the Rights of Persons with Disabilities including on Article 29 on Participation in political and public life. In order to support inclusive and equal electoral participation for persons with disabilities, arrangements for	(26) The Member States, by ratifying, and the Union, by concluding, have committed themselves to ensure compliance with the United Nations Convention on the Rights of Persons with Disabilities including on Article 29 on Participation in political and public life. In order to support inclusive and equal electoral participation for persons with disabilities, accessibility

Union citizens residing in a Member State of which they are not nationals to exercise the right to vote and to stand as a candidate there in municipal elections should have due regard to the needs of citizens with a disability and older citizens.

requirements and arrangements for Union citizens residing in a Member State of which they are not nationals to exercise the right to vote and to stand as a candidate there in municipal elections should have due regard to the needs of citizens with a disability and older citizens. **Member States should not deprive the right to vote and stand as candidate to citizens with disabilities under total or partial legal guardianship who are not nationals and enjoy these rights in their home Member State, nor to deprive them of these rights based on a legal incapacitation decision in their home Member State if such deprivation would impose different conditions as for national citizens under total or partial legal guardianship.**

Justification:

This recital should make explicit reference to Article 29 (as the proposal for a Council Directive on municipal elections does), because this is the aim as for the political rights of persons with disabilities. Additionally, the recital should refer not only to the specific arrangements, but also to the accessibility requirements to be incorporated when, for example, providing information to all citizens. Finally, the recital should also lay down the overall principle concerning the right to vote and stand as candidate of persons with disabilities. It is not just a matter of specific arrangements, but legal barriers which prevented 400,000 citizens from voting in the last European elections. Given that these Council Directives will not aim at ensuring the right to vote and stand for election of persons with disabilities in national laws, they should, at the very least, set out a general principle in line with the UN CRPD and make sure that the voting rights ensured in an increasing number of EU countries will always prevail.

Further explanations

Disparities concerning voting rights of persons with disabilities

EDF welcomes the revision of these Council Directives as an opportunity to address the **discriminatory situations caused by the legal disparities across the EU regarding the political rights of persons with disabilities**. Such situations lived by mobile EU citizens with disabilities compromise the implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD), particularly its article 29 on Participation in political and public life. The CRPD did not exist when these Directives were first adopted, and therefore the Convention should be regarded carefully in the revision of these important legislation for EU citizens living in another EU country.

Thanks to the advocacy of the disability movement, and the universal ratification of the CRPD by the EU and all Member States, there has been a substantial progress on the realisation of political rights of persons with disabilities in recent years:

- **13 Member States uphold the right to vote without exemptions** to all persons with disabilities (Austria, Germany, Denmark, Spain, Finland, France, Croatia, Ireland, Italy, Latvia, Netherlands, Sweden and Slovakia). However,
- **7 Member States allow the possibility of restricting the right to vote to certain persons with disabilities when placed under legal guardianship** (Belgium, Czechia, Hungary, Lithuania, Malta, Portugal and Slovenia). And most worrying,
- **7 Member States automatically deny the right to vote to persons under legal guardianship** (Bulgaria, Cyprus, Estonia, Greece, Luxembourg, Poland and Romania).

According to the European Economic and Social Committee², there were approximately **400,000 citizens** in the latter 14 countries were deprived from their right to vote in the last European elections.

Concerning the right to stand as candidate:

- **8 Member State uphold the right to stand as candidate to all persons with disabilities without restrictions** in European Parliament elections (Austria, Denmark, Germany, Spain, Croatia,

² <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/need-guarantee-real-rights-persons-disabilities-vote-european-parliament-elections-additional-opinion>

Italy, Netherlands and Sweden), whereas the rest of EU countries still limit this right.

These restrictions apply mostly (but not only) to persons with intellectual disabilities who have been deprived from their legal capacity. Due to the different approaches of Member States concerning the political rights of persons with disabilities, mobile EU citizens with disabilities face situations as follows:

Example 1: A French person (they/them) with an intellectual disability, who is under partial legal guardianship, moves with their family to Luxembourg. Even though they have the right to vote in all elections in France, in Luxembourg this will not be possible, or may be able to vote to the French MEP candidates, but not Luxembourgish candidates and not in the municipal elections of Luxembourg. This person will lose political rights depending on where they go.

Example 2: A Luxembourgish person (they/them) with an intellectual disability, who is under legal guardianship, and does not have the right to vote nor to stand for office in their country. They move to Germany, where persons under guardianship can vote and can stand for elections. If Germany decides to ask for a formal declaration of these rights in their home country, this person may end up having different political rights as Germans with disabilities under legal guardianship. If Germany decides not to ask for the formal declaration proposed in the Directive, this person could vote and become candidate.

Given that these Directives do not aim at specifying political rights under national law, we believe that they could nevertheless set out the legal ground to **ensure that the political rights of persons with disabilities and the CRPD prevail where possible**. This means that persons with disabilities under substituted decision-making regimes who enjoy these political rights will not lose them when moving to another EU country, and that countries upholding the political rights of persons with disabilities will not have to deny them to non-nationals.

EDF suggests this approach in the framework of the legislative process of these Directives, but strongly supports and agrees with the spirit and obligations set out in Article 12 of the CRPD concerning equal recognition before the law.

Provision of information

Persons with disabilities, whether they are national or non-nationals, often point at lack of information and support as for the ways in which they can exercise their right to vote. Given the different voting procedures at national level, and the wide range of specific arrangements put in place to

support persons with disabilities (see section below), **it is paramount that Member States also inform non-nationals with disabilities about the specific voting methods and assistive tools they can use to participate in European and municipal elections.**

Besides, in addition to the language requirements proposed by the Commission, **it is essential that the provision concerning “clear and plain” language is further defined.** EDF proposes to follow one of the requirements of the [European Accessibility Act](#) and refer to level B1 of the [Council of Europe’s Common European Framework of Reference for Languages](#), as a means to facilitate practical implementation of this provision. This will not only help non-native voters, but also persons with disabilities, older people, and people with low educational level, among others.

Lastly, when the Commission proposes to Member States to provide the information in an accessible manner for persons with disabilities, it fails to refer to specific accessibility requirements. Without these, Member States will not have a basis to apply this requirement in practice. Since the Accessibility Act includes requirements, and supporting standards, for the provision of information (digital and non-digital), it is recommended that these Council Directives **keep the legal coherence as for accessibility in the EU by explicitly referring to the European Accessibility Act.**

Specific means of voting

To guarantee the exercise of voting rights Member States have set up different methods and arrangements, sometimes for all voters, and sometimes particularly for persons with disabilities. Among them we can highlight the following:

Alternative and advance means of voting:

- **Advance voting in person:** 11 Member States (Austria, Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Malta, Portugal, Slovenia and Sweden).
- **In-country postal voting:** 9 Member States (Austria, Germany, Spain, Finland, Ireland, Lithuania, Luxembourg, Poland, and Slovenia).
- **Internet voting** – accessible for persons with disabilities: 1 Member State (Estonia).
- **Mobile ballot boxes**, which implies a visit of a mobile polling commission at the location of the voter: 19 Member States (Austria, Bulgaria, Germany, Croatia, Czechia, Denmark, Estonia, Finland, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Poland, Romania, Slovakia and Sweden). In the case of Germany, the

Netherlands Poland and Portugal, this applies only in connection with special locations such as hospitals or long-term care residential institutions.

- **Changing polling stations** (in some countries only available for persons with disabilities): all Member States except Cyprus, France, Greece, Malta, Spain and Sweden.

Assistive tools:

In the last European elections, efforts were undertaken by Member States to support the right to vote of persons with disabilities through the use of assistive tools. These include Braille and large-print voting materials and tactile ballot sleeves and stencils for people who are blind or partially sighted to mark their vote preference; magnifying glasses, special writing utensils and lamps, and information in easy-to-read and sign language, among others.

The availability of such assistive tools is, however, far from being the standard, but remains in the domain of good practice. In most Member States, election administrations make use of these, but no assistive tools are available in Bulgaria, Cyprus, Greece, Italy, Romania, Slovakia or Slovenia. Also, in some Member States these supporting tools are available in European elections, but not in municipal elections.

EDF position as for the proposed Council Directives is to ensure that Member States **provide the alternative and advance means of voting, as well as the supporting tools available for nationals with disabilities, to non-nationals under the same conditions.**

Acknowledgements and additional resources

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The data and information used for the preparation of this document has been found at the following reports:

- [EDF 6th Human Rights Report on political participation of persons with disabilities \(2022\) – Reference document](#)
- [Overview of the CRPD Committee recommendations to Member States and the EU concerning article 29 of the CRPD \(2022\)](#)
- [EDF position paper on the European Parliament proposal for a new EU Electoral Law \(2021\)](#)
- [EESC: The need to guarantee real rights for persons with disabilities to vote in European Parliament elections \(additional opinion 2020\)](#)
- [EESC: The real right of persons with disabilities to vote in European Parliament elections \(Information report 2019\)](#)
- [FRA: Who will \(not\) get to vote in the 2019 European Parliament elections? \(report 2019\)](#)
- [Elections Watch EU: Elections to the European Parliament \(2019\)](#)
- [EBU: Accessible Voting Awareness \(report 2019\)](#)

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