

# A right for everyone but a privilege to some – the right to vote of persons with disabilities

## Challenges and barriers faced by voters with disabilities in the EU and North Macedonia

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*This brief gives insight on the right to vote of persons with disabilities in the EU and North Macedonia, amid the provisions of the new proposed EU electoral law and the factual situation in North Macedonia in light of the forthcoming 2024 elections.*

## Introduction

2024 is foreseen as the year of elections worldwide.<sup>1</sup> In the European Union (EU), the European elections are scheduled to be held in early June.<sup>2</sup> In North Macedonia both presidential and parliamentary elections are scheduled to be held in April and May.<sup>3</sup> As much as elections represent a cornerstone of democracy, it has been noted that a great number of persons with disabilities will be unable to participate in the 2024 elections due to barriers concerning accessibility and legal capacity.<sup>4</sup> This brief gives insight on the right to vote of persons with disabilities in the EU and North Macedonia, amid the provisions of the new proposed EU electoral law and the factual situation in North Macedonia in light of the forthcoming 2024 elections.

Albeit voting is not the only means of political participation and engagement, it is a vital method of political participation<sup>5</sup> especially for persons with disabilities. The Convention on the Rights of Persons with Disabilities (CRPD) stipulates that states should guarantee persons with disabilities political rights on an equal basis with others and should undertake measures to ensure procedures, facilities and materials are appropriate and accessible; protect the right to vote by secret ballot; and if necessary and to the persons' request, allow assistance in voting by a person of choice.<sup>6</sup> The provisions of the CRPD are key for creating an inclusive society and overcoming barriers of participation persons with disabilities face. Moreover, the right to vote is read in conjunction with other rights such as accessibility; equality and non-discrimination; equal recognition before the law; freedom of information. Limitations on these rights seriously impact and create barriers on persons with disabilities voting right.<sup>7</sup> Additionally, the

1 Doug Saunders, 'Opinion: Half the World Is Holding Elections in 2024. Democracy's Future Is Riding on the Outcome' The Globe and Mail (29 December 2023) <<https://www.theglobeandmail.com/opinion/article-half-the-world-is-holding-elections-in-2024-democracys-future-is/>>.

2 'Next EU Elections Will Be Held between 6 and 9 June 2024' Euronews (13 December 2023) <<https://www.euronews.com/my-europe/2023/05/17/the-next-elections-to-the-european-parliament-will-be-held-between-6-and-9-june-2024>>.

3 'On May 8, there will be voting in double elections - an agreement has fallen on the leadership [На 8 мај ќе се гласа на двојни избори – падна договор на лидерската]' Radio Free Europe (4 December 2023) <[https://www.slobodnaevropa.mk/a/na-8-maj-kje-se-glasa-na-dvojni-izbori-padna-dogovor-na-liderskata/32713325.html](https://www.slobodnaevropa.mk/a/na-8-maj-kje-se-glasa-na-dvojni-izbori-padna-dogovor-na-liderskata/)>.

4 'Voters with Disabilities in the European Union May Not Be Able to Participate in EP Elections in 2024' (Inclusion Europe, 24 November 2022) <<https://www.inclusion-europe.eu/2024-eu-elections-and-disability-rights-on-voting/>>.

5 Armin Rabitsch, Alejandro Moledo and Michael Lidauer, 'Inclusive Elections? The Case of Persons with Disabilities in the European Union' (2023) 30 South African Journal of International Affairs 535. Page 536

6 Convention on the Rights of Persons with Disabilities 2008 (A/RES/61/106).in accordance with article 45(1 Article 29 (a) (i) (ii) (iii)

7 Rabitsch, Moledo and Lidauer (n 1). Page 537



CRPD is legally binding to the ratifying countries, thus national and regional provisions must be in line with the aforementioned state obligations. Inclusion and participation of all individuals in society is the cornerstone of democracy hence accessible and inclusive elections represent a crucial side of democracy and rule of law in a country.

## A new wave for voters with disabilities in EU

In the past elections in the EU, persons with disabilities have been facing many barriers in exercising their right to vote. In 2019, it was estimated that 800 000 EU citizens with disabilities were unable to participate in the European Parliament elections, who were faced with barriers of technical, infrastructural and legal nature.<sup>8</sup> One of the biggest obstacles continues to be accessibility, including polling stations, voting booths, machines and correspondence and information to be disseminated to voters.<sup>9</sup> Reasonable accommodation has been improved with the help of Disabled Persons Organizations, however it remains a challenges as it varies from Member State to Member State.

In 2022, the European Parliament adopted a draft legislative resolution proposing to repeal the 1976 European Electoral Act with a new Council Regulation.<sup>10</sup> The proposal is significant in bringing forth key and needed reforms for the European elections to be accessible and inclusive. In this regard, the recommendations of the European Disability Forum<sup>11</sup> have made great impact on the formulations of the provisions. The draft legislative resolution focuses on several aspects. Article 4 stipulates that EU citizens from the age of 16, including persons with disabilities regardless of their legal capacity can vote in election to the European Parliament. Article 7 focuses on accessibility and it obliges Member States to ensure persons with disabilities have equal access to relevant materials, to voting facilities and to polling stations; Member states should put into place appropriate arrangements with the aim of facilitating the exercise of the right to vote by persons with disabilities independently and in secret; and to ensure, at the persons request and choice, receive assistance in voting. Furthermore Member States should ensure that postal voting is accessible for persons with disabilities. As the EU has ratified the CRPD, the proposed provisions of the regulation reflect the obligations as set by the CRPD. The proposed legislation, representing a crucial step forward for voters with disabilities, it is yet to be adopted by the

European Council and Member States,<sup>12</sup> however, the process has been lagging due to limited support due to other political aspects and insufficient time for adoption before the European elections.<sup>13</sup> The European Disability Forum has asserted the importance of aligning EU electoral legislation with the CRPD, since the measures foreseen by the legislation would significantly contribute to accessible elections in the European Parliament and in Member States through necessary alternative means of voting including: accessible postal voting, free choice of assistance if needed, and voting regardless of legal capacity.<sup>14</sup>

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8 European Economic and Social Committee, 'The Real Right of Persons with Disabilities to Vote in European Parliament Elections (Information Report)' (2019) SOC/554 <<https://www.eesc.europa.eu/en/our-work/opinions-information-reports/information-reports/real-right-persons-disabilities-vote-european-parliament-elections-information-report>>. Page 4-5, Section. 2

9 Alejandro Moledo and Marine Uldry, 'Human Rights Report on Political Participation of Persons with Dissabilities' (European Disability Forum 2022) Issue 6 <<https://www.edf-feph.org/publications/human-rights-report-2022-political-participation-of-persons-with-disabilities/>>. Page 15

10 European Parliament, 'European Parliament Legislative Resolution of 3 May 2022 on the Proposal for a Council Regulation on the Election of the Members of the European Parliament by Direct Universal Suffrage, Repealing Council Decision (76/787/ECSC, EEC, Euratom) and the Act Concerning the Election of the Members of the European Parliament by Direct Universal Suffrage Annexed to That Decision (2020/2220(INL) – 2022/0902(APP))' <[https://www.europarl.europa.eu/doceo/document/TA-9-2022-0129\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0129_EN.html)>.

11 European Disability Forum, 'Reform of the EU Electoral Law - European Disability Forum Position Paper' (2021) <<https://www.edf-feph.org/publications/edf-position-paper-on-the-reform-of-the-european-union-electoral-law/>>.

12 Maria Diaz Crego, 'Towards New Rules for European Elections?' (Think Tank | European Parliament 2022) <[https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2022\)729403](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)729403)>.

13 Eszter Zalan, 'No Majority for Reforms for 2024 European Parliament Election' (EUobserver, 27 June 2023) <<https://euobserver.com/eu-political/157199>>.

Eleonora Vasques, 'LEAK: Most Countries Hesitant about EU Electoral Law Reform' (Euractiv, 5 July 2023) <<https://www.euractiv.com/section/elections/news/leak-most-countries-hesitant-about-eu-electoral-law-reform/>>.

14 Moledo and Uldry (n 9). Page 95 – 98

In its 2021 Disability Strategy, the EU Commission stated that it will work together with Member States to ensure participation of persons with disabilities on an equal basis with others in accessible European elections, and devise a guide on good electoral practices.<sup>15</sup> In light of the June 2024 elections, the European Commission has published a Guide on good electoral practices in Member States addressing the participation of citizens with disabilities in the electoral process. This comes as a positive step to showcase positive practices taken thus far to minimize the discrimination persons with disabilities face. As the Guide mentions, measures that have been taken by Member States include practices for early voting and alternative voting procedures, including advance voting in person, postal voting, online voting, mobile voting, curb-side voting, changing or choosing polling stations, assisted voting by a person freely chosen by the voter; availability of assistive tools such as Braille, QR codes, large print, audio and easy-to-read guides, Braille envelopes, tactile stencils, magnifying glasses, extra lighting, writing utensils and stamps; procedures to request reasonable accommodation.<sup>16</sup> Moreover, the recommendations the guide provides go beyond practical measures. It emphasizes in other words the need of training of polling station staff, election officials and others involved in various matters such as awareness raising on electoral rights of persons with disabilities, reasonable accommodation, language guidance, support, creation of clear outlets for citizen information. Furthermore, it also provides concrete framework of actions to be taken before, during and after elections completed with a checklist examples.<sup>17</sup> A recent recommendation by the European Commission further encourages Member States to make good use of the guide and follow the frameworks provided so as to make electoral processes inclusive by supporting the participation of voters with disabilities.<sup>18</sup>

## Voters with disabilities in North Macedonia

Persons with disabilities in North Macedonia are faced with multiple barriers when it comes to exercising their right to vote. The electoral boards have unfavorable opinions regarding people with psychosocial and/or learning disabilities taking part in the electoral process. The inaccessibility of political party offices and voting stations have been continuously identified.<sup>19</sup> In addition to this, there is lack of fundamental knowledge about international mechanisms and the rights of persons with disabilities whether they can cast ballots from home by both officials and persons with disabilities themselves.

In a series of elections in the past eight years, the barriers have persisted. During the 2016 elections, 30% of citizens with disabilities stated that they were unable to exercise their right to vote due to the inaccessibility of the polling stations. Only 9% of persons with disabilities consider that information during the elections is accessible and available.<sup>20</sup> Furthermore, aside from the physical barriers present in the polling places, no modifications had been implemented to accommodate individuals with sensory disabilities, such as sound programs in the electronic ballot boxes, Braille formats, and signs.<sup>21</sup> In the 2020 presidential elections, although some improvement had been made, still Braille ballot cover and voting tabulators were not placed, even when placed, the Braille was not readable; physical access to facilities was scarce due to missing ramps and voting stations not being on the ground floor. During

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15 European Commission, 'Union of Equality Strategy for the Rights of Persons with Disabilities 2021-2030' (2021) <<https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8376&furtherPubs=yes>>.

16 European Commission, 'Guide of Good Electoral Practices in Member States Addressing the Participation of Citizens with Disabilities in the Electoral Process | European Commission' (2023) <[https://commission.europa.eu/document/66b9212e-e9b0-409d-88a3-c0e505a5e670\\_en](https://commission.europa.eu/document/66b9212e-e9b0-409d-88a3-c0e505a5e670_en)>. Pages 31-32

17 *ibid.* Pages 35 -37

18 European Commission, 'Commission Recommendation (EU) 2023/2829 of 12 December 2023 on Inclusive and Resilient Electoral Processes in the Union and Enhancing the European Nature and Efficient Conduct of the Elections to the European Parliament' (2023) C/2023/8626 <<http://data.europa.eu/eli/reco/2023/2829/oj/eng>>. Paragraph 8. Regarding the European Commission's Recommendation the European Disability Forum has reacted on its insufficient tackling of the legal barriers such as individual deprivation of electoral rights for persons with intellectual and psycho-social disabilities. For more see: <https://www.edf-feph.org/commission-recommendations-insufficiently-address-electoral-rights-of-persons-with-disabilities/>

19 Biljana Kotevska and others, 'Franet National Contribution to the Fundamental Rights Report 2023 North Macedonia' (European Policy Institute (EPI) – Skopje 2023) <[https://epi.org.mk/wp-content/uploads/fr\\_2023\\_north\\_macedonia\\_en.pdf](https://epi.org.mk/wp-content/uploads/fr_2023_north_macedonia_en.pdf)>. Page 46

20 Elena Kochoska, 'Analysis of the Political Participation of Persons with Disabilities' (OSCE - Skopje 2017) <[https://www.osce.org/files/Analysis%20of%20the%20Political%20Participation%20of%20PwDs\\_ENG.pdf](https://www.osce.org/files/Analysis%20of%20the%20Political%20Participation%20of%20PwDs_ENG.pdf)>. Page 41

21 *ibid.* Page 35

media campaigns and political shows, only 2 media outlets had subtitles and only 1 had sign language.<sup>22</sup> In addition, 22% of persons with disabilities were not allowed to vote with assistance.<sup>23</sup> During the 2021 elections the ODIHR Election Observation Missions recommended further measures to be taken by state and local authorities to ensure independent access for persons with disabilities.<sup>24</sup>

In recent developments regarding the right to vote, a milestone has been achieved through a judicial decision confirming the lack of accessibility and reasonable accommodation persons with disabilities have faced during elections in North Macedonia. In early 2023 the Basic Court in Skopje determined that direct discrimination was committed by the Government of North Macedonia and the State Election Commission by failing to take actions to adapt the infrastructure and space to and in part of the polling stations and violated the principle of reasonable accommodation. In this way, the defendants, made it impossible for persons with disabilities to exercise their right to vote, and thus hindered the active participation of persons with disabilities in the political life of the state.<sup>25</sup> The decision was fully confirmed by the Appellate Court in Skopje where it states that the Government and the State Election Commission are obliged to provide adequate access to persons with disabilities on an equal basis with others, respect relevant legislation and international mechanisms and within their competences take appropriate actions for adaption and accessibility. Specifically within these obligations, the Court asserted that the defendants should enable access to flat roads, parking spaces properly marked with high-contrast colour; placement of signs and numbers in a prominent place in a large format with high contrast or sound signalling to the polling stations; access to the voting spaces by installing handrails along the stairs and walls; to install access ramps, handrails, wider entrances, to provide an accessible lift or platforms on proper level and with steps; access in the voting spaces, its equal lighting, moving of furniture in order to enable greater possibility of movement; installation of properly adapted voting screens and installation of the ballot box at an appropriate height for persons with physical disabilities.<sup>26</sup>

A step forward in improving the situation of persons with disabilities in exercising their rights, including the right to vote in elections, is the new National Strategy on the rights of persons with disabilities 2023-2030 with an Action Plan which the Government adopted in December 2023 and is based on the provisions of the CRPD and the European Strategy on Disability.<sup>27</sup> The Strategy has nine priority areas of

which priority area number one is accessibility and priority area number two is equality, access to justice and active participation in public and political life.<sup>28</sup> Activities are planned to overcome the challenges in terms of inaccessible polling stations, information, as well as limited access to voter registration. The action plan foresees several activities with indicators with first and foremost being determining the need to amend the Electoral Code and the Law on Political Parties in order to increase the participation of persons with disabilities in political and public life; Removing barriers and providing accessible places for exercising the right to vote (renovated schools with improved accessibility and alternative polling stations provided upon prior registration); Creation of accessible materials and provision of information in accessible formats for exercising the right to vote (Adapted information materials in 4 accessible formats (easy to read, audio format, sign language, braille).

22 Blagica Dimitrovska and Tatjana Arsovska, 'The Right to Vote of Persons with Disabilities Monitoring of Parliamentary Elections 2020 [Правото На Глас На Лицата Со Попреchenost Мониторинг На Парламентарни Избори 2020 г.]' (Westminster Foundation for Democracy, North Macedonia 2021) <<https://www.wfd.org/what-we-do/resources/making-right-vote-accessible-all-pwds-observe-parliamentary-elections-north>>. Pages 16-18

23 *ibid.* Page 48.

24 'Republic of North Macedonia, Local Elections, 17 and 31 October 2021 ODIHR Election Observation Mission Final Report' (Office for Democratic Institutions and Human Rights 2021) <<https://www.osce.org/odhr/elections/north-macedonia/514666>>. Page 33

25 'The Government and the State Election Commission Committed Direct Discrimination against Persons with Disabilities When Exercising Their Right to Vote (Владата и Државната Изборна Комисија Сториле Директна Дискриминација Врз Лицата Со Попреchenost При Остварување На Нивното Право На Глас)' (Official Website of The Helsinki Committee for Human Rights of the Republic of Macedonia, 9 January 2022) <<https://mhc.org.mk/news/vladata-i-drzhavnata-izborna-komisija-storile-direktna-diskriminacija-vrz-licata-so-poprechenost-pri-ostvaruvanje-na-nivnoto-pravo-na-glas/?fbclid=IwAR3qrzFpDz7DN6Kmtkv63BCe5R9jU14z3LpLif7p2CTH9njMBH2xJmwdKOU>>.

26 'The Appellate Court Confirmed That the Government and the State Election Commission Directly Discriminated against Persons with Disabilities in Their Access to the Voting Process' (Helsinki Committee for Human Rights, 20 December 2023) <<https://mhc.org.mk/en/news-en/the-appellate-court-confirmed-that-the-government-and-the-state-election-commission-directly-discriminated-against-persons-with-disabilities-in-their-access-to-the-voting-process/>>.

27 'The Government Adopted the New National Strategy on the Rights of Persons with Disabilities [Владата Ја Усвои Новата Национална Стратегија За Правата На Лицата Со Попреchenost 2023-2030]' (Radio MOF, 29 December 2023) <<https://www.radiomof.mk/vladata-ja-usvoi-novata-nacionalna-strategija-za-pravata-na-licata-so-poprechenost-2023-2030/>>.

28 To date, the final text of the National Strategy on the rights of persons with disabilities 2023-2030 with its Action Plan is not yet published however, the draft text of the strategy can be found on the official site of the National electronic register: <https://ener.gov.mk/Default.aspx?item=newdocumentdetails&detailid=61>

## So where do voters with disabilities stand and what further?

Despite efforts to minimise barriers of participation, persons with disabilities are still finding themselves in the margins of society especially when it comes to access political life. Inaccessible elections throughout the years have proven this to be true. As 2024 proves to be the year of elections, it is of a crucial nature to have national and regional legislations harmonised with the provisions of the CRPD. Subsequently, harmonization must be followed with implementation. In North Macedonia, the new Strategy on the rights of persons with disabilities and the judicial decision on inaccessibility and are timely indicators for the Government and the State Election Commission to undertake the necessary measures until the elections in the middle of 2024. Furthermore, the involved institutions responsible to deliver the actions set in Strategy for the rights of persons with disabilities must transparently report on the undertaken activities, and periodically update the Action Plan. This is of importance as the current action plan foresees activities that greatly impact how the elections and voting will function for persons with disabilities until 2030. Some of the timeframes put by the Action Plan do not correspond with the immediate needs for persons with disabilities to exercise their right to vote in April and May, therefore additional and appropriate measures should be taken by the State Election Commission to address the accessibility needs, such as adapted information materials in 4 accessible formats (easy to read, audio format, sign language, braille; as well as trainings for staff related to secrecy of voting as well as assistance during voting upon the choice of the person with disability. Furthermore, as the political campaigns will commence, inclusion and accessible information must be provided for persons with disabilities.

