



The voice of blind and partially sighted people in Europe

Monitoring Political Participation Rights of Blind and Partially-Sighted People in Europe: An Analysis of the European Blind Union CRPD Database

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1. Purpose of the Report

This report aims to present and analyse the information relating to political participation rights contained in the European Blind Union CRPD online database. That information has the potential to equip campaigners, policy makers and others with valuable data and analysis that will support their efforts to enhance the political participation of blind and partially sighted people.

The EBU data will be presented and analysed in Section 4 below – and this will constitute the core of this report. Before that, however, the UN and European policy context will be briefly outlined in Section 2; to be followed, in Section 3, by a short introduction to the work which has been carried out on the political participation rights of persons with disabilities in European countries by the EU Agency for Fundamental Rights and the European Academic Network of Experts on Disability. Finally, in Section 5, the analysis will be concluded.

2. UN and European Policy Context

2.1 United Nations Context

The key human rights focus of initiatives to strengthen and secure the political participation rights of all people with disabilities is now the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and, in particular, its Article 29. This will therefore be given detailed consideration in this section. It should, however, be added that political participation rights are also addressed by other international human rights treaties – in particular the International Covenant on Civil and Political Rights (ICCPR). Although the disability focus of the CRPD is absent from the ICCPR, disability falls within its broad ambit and it therefore also provides opportunities for developing interpretations and advice (eg in the concluding observations of the Committee on Civil and Political Rights) which are consistent with the CRPD.

Article 29 of the CRPD is central to the analysis in this report. However, as with any other human rights treaty provision, it would be misleading to read it in isolation. Thus, in the discussion which follows, reference will be made to other CRPD Articles where they have an important cross-cutting role to play in relation to political participation. The starting-point is nevertheless Article 29 itself, which reads as follows:

- “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 to:
- (a) 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) 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.”

Thus, as the opening words of Article 29 make clear, the provision is centrally concerned with a commitment to ensuring that people with disabilities are granted opportunities to enjoy political rights “on an equal basis with others”. Implicit in this are the cross-cutting Article 5 obligations on States to prohibit disability-based discrimination (which include failures to provide reasonable accommodation) and the Article 9 and 21 obligations to ensure accessibility. The accessibility of election processes, which indeed is explicitly addressed in Article 29(a)(i), has already attracted the attention of the Committee on the Rights of Persons with Disabilities. In its Concluding Observations on Hungary, it stressed that States Parties must ensure that voting is

“fully accessible to all persons, irrespective of disability, and that voting information is provided in all accessible formats”.¹

In its Concluding Observations on Spain, the Committee also stressed that “all required support, including personal assistants” must be provided to people with disabilities who are elected into office.² Although not mentioned by the Committee, it should be noted that an unreasonable failure to provide such support would constitute a failure to provide reasonable accommodation, which would itself be a form of disability-based discrimination contrary to Article 5 of the CRPD.

No discussion of Article 29, and its relationship with other CRPD provisions, would be complete without a mention of Article 12. In that Article, States Parties undertake to recognise the legal capacity of people with disabilities and, where appropriate, provide them with the support they need to exercise it. Political participation rights such as voting entail an exercise of legal capacity. Deprivations of legal capacity are therefore likely to result in limitations on the exercise of Article 29 rights such as the right to vote – a point acknowledged by the Committee on the Rights of Persons with Disabilities in its General Comment 1.³ This type of guardianship system came before the UN Committee on the Rights of Persons with Disabilities in the case of *Zsolt Bujdosó and five others v Hungary*.⁴ The Committee ruled that, because people subjected to guardianship automatically lost their right to vote, Hungary had failed to comply with Article 29 and also Article 12 of the CRPD. Whilst issues of legal capacity are of critical importance to the full and effective implementation of Article 29, they are of less central relevance to blind and partially-sighted people than are issues of accessibility and discrimination. Accordingly, legal capacity will not be given a heavy emphasis in this report.

¹ Concluding Observations on the initial report of Austria, CRPD/C/AUT/CO/1, 13 September 2013, para 49.

² Concluding Observations on the Initial Report of Spain, CRPD/C/ESP/CO/1, 23 September 2011, para 48.

³ General Comment 1 (2014), on Article 12 – Equal Recognition before the Law, para 8.

⁴ Communication No. 4/2011, CRPD/C/10/D/4/2011.

Article 29 sets out, in paragraphs (a) and (b), two broad types of commitment. Those in paragraph (a) consist of measures to enable people with disabilities to participate effectively in political and public life, including by voting and being elected. Those in paragraph (b) consist of measures to promote and encourage their participation in public affairs, including by joining and forming political parties.

2.2 European Context

2.2.1 European Union

The CRPD was ratified by the EU in December 2010. Because of this, the CRPD now operates as a powerful interpretive aid to EU law and provides powerful strategic orientation for EU law and policy development as well as for other actions. It thus provides the inspiration which underpins the European Commission's European Disability Strategy 2010–2020.⁵

The European Disability Strategy 2010-2020 includes commitments to work with Member States to enhance the political (and other) participation of EU citizens with disabilities. 'Participation' is one of the eight key areas for action in this Strategy. Under it, the Commission states that it will address accessibility to voting including by supporting Member States' efforts to ensure that people with disabilities can fully exercise their electoral rights.

As regards EU law on voting, there is nothing which confers a direct right to vote on nationals of the particular Member State in which they reside. This remains a matter for Member States and lies beyond the scope of EU competence. However, EU law does address the situation of nationals of any EU Member State who reside in a different Member State. Such people, according to EU law, have the right to vote and stand for election in European Parliament and municipal elections on the same terms as nationals.⁶ The FRA has urged that future reports on the measures taken by Member States to comply with these requirements should make explicit reference to the steps they have taken to ensure that people with disabilities are able to vote.⁷

2.2.2 Council of Europe

Council of Europe countries are required by Article 3, Protocol 1 of the European Convention on Human Rights (ECHR) to hold regular elections "under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature". This Article makes no explicit reference to disability. Its potential usefulness as a means of challenging exclusionary

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social committee and the Committee of the Regions European Disability Strategy 2010-2020: a Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final.

⁶ See in particular, Treaty on the Functioning of the European Union, Articles 20(2)(b) and 22; European Union Charter of Fundamental Rights, Articles 39 and 40; Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals; and Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals.

⁷ EU Agency for Fundamental Rights report, "The Right to Political Participation for Persons with Disabilities: Human Rights Indicators" 2014, p 8 <https://fra.europa.eu/en/publication/2014/indicators-political-participation-persons-disabilities>

national systems is nevertheless illustrated by the recent case of *Alajos Kiss v Hungary*,⁸ in which it was held that a system which automatically denied voting rights to people under guardianship contravened the ECHR. In the earlier case of *Molka v Poland*,⁹ however, it was disappointingly ruled that there was no ECHR violation in a case where a wheelchair-user was prevented from voting because the polling station was on the first floor of a building with no lift and no effective means of manual lifting. Although this case concerned a person with a physical impairment, it has clear relevance to people with visual impairments who are prevented from voting by inaccessible information or ballot papers. This decision has been subjected to heavy (and justified) criticism¹⁰ and it is to be hoped that the European Court of Human Rights will adopt a different approach to the human rights implications of inaccessible structures and systems at the earliest possible opportunity.

The full and equal participation of people with disabilities in political activities has been given a high priority in relevant initiatives of the Council of Europe's Committee of Ministers. It is the subject of Action Line 1 of the Council of Europe's Disability Action Plan 2006-2015, which concerns efforts to enable and encourage people with disabilities "to participate in politics at local, regional, national and international levels".¹¹ It is also the subject of a subsequent Committee of Ministers Recommendation¹² and Parliamentary Assembly Resolution.¹³

⁸ *Alajos Kiss v. Hungary*, No. 38832/06, judgment of 20 May 2010.

⁹ No.56550/00, 11 April 2006 (decision).

¹⁰ See eg M Ventegodt Liisberg, 'Accessibility of Services and Discrimination: Concentricity and Consequence', *International Journal of Discrimination and the Law* (forthcoming).

¹¹ Committee of Ministers, Recommendation Rec(2006)5 on the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006–2015, 5 April 2006.

¹² Committee of Ministers Recommendation CM/Rec(2011)14 on the participation of persons with disabilities in political and public life.

¹³ Parliamentary Assembly Resolution 1642 (2009) on Access to rights for people with disabilities and their full and active participation in society.

3. Pan-Disability Initiatives to Monitor Political Participation Rights in the EU

3.1 Reasons for Relevance

In addition to the EBU CRPD database, there are two important sources of data on the political participation of people with disabilities in Europe – both of which take a pan-disability approach rather than focusing on people with different types of impairment. They are introduced in this section because some awareness of these additional sources will considerably enhance the potential engagement of campaigners and policy makers in efforts to strengthen the political participation of blind and partially-sighted people in Europe. Such visual-impairment-specific efforts would, it is suggested, be considerably strengthened by engagement with these pan-disability debates and initiatives – particularly where the latter produce recommendations which would enhance the political participation of blind and partially sighted people.

3.2 EU Agency for Fundamental Rights – “The Right to Political Participation for Persons with Disabilities: Human Rights Indicators”

The above report, published in 2014, is now available on the FRA website.¹⁴ It draws upon analysis of EU surveys as well as upon reports of national experts in the 28 EU Member States¹⁵ to provide an extensive analysis of the data currently available on the political participation of people with disabilities in Europe. On the basis of this, various “opinions” and “recommendations” are formulated. These are directed both to EU bodies and also to Member States and are of considerable relevance to blind and partially-sighted people as well as to other people with disabilities.

The FRA identifies four main themes associated with the implementation of Article 29 of the CRPD. The first two themes are derived from the first set of rights set out in Article 29 of the CRPD (in Article 29(a)); and the last two are derived from the second type of right set out in Article 29 (in Article 29(b)). The themes are:

- (a) “Lifting legal and administrative barriers to political participation;”
- (b) “Making voting procedures, facilities and election materials more accessible;”
- (c) “Expanding opportunities for participation in political and public life;”
- (d) “Increasing awareness of the right to political participation of persons with disabilities.”¹⁶

For each of these themes, FRA identifies indicators designed to track the progress being made by EU Member States toward the implementation of Article 29. It adopts the approach to human rights indicators suggested by the UN Office of the High Commissioner on Human Rights (OHCHR) in 2012.¹⁷ This entails using three different types of indicator: first, indicators

¹⁴ <https://fra.europa.eu/en/publication/2014/indicators-political-participation-persons-disabilities>

¹⁵ For each country two reports were prepared – one by the national expert in FRANet (the expert network of the EU Agency for Fundamental Rights); and one by the national expert in the European Academic Network of European Disability Experts.

¹⁶ FRA report (n 5) p 19.

¹⁷ <http://www.ohchr.org/EN/Issues/Indicators/Pages/documents.aspx>

of structure (which broadly equate to the level of commitment which has been made to a particular right); second, indicators of process (which are concerned with the effort invested in transforming commitments into reality on the ground); and third, indicators of outcome (which consist of measurements of results achieved). Thus, for each of its four Article 29 themes, FRA identifies indicators of all three types. As might be expected, there is some overlap in the indicators used for different themes. Thus, for instance, the extent to which a country has made a commitment to Article 29 of the CRPD (eg by ratifying the CRPD with or without reservations against this Article) appears as an indicator of structure in all four themes. Such evidence as there is to populate the various indicators is then set out and analysed.

A startling outcome of the FRA study is the lack of data to support certain types of indicator. In particular, there is very little data to support outcome indicators – and even less which is sufficiently similar to support cross-country comparisons. The need for more systematic data collection in this area is a key finding and one of the recommendations of the report.

3.3 The European Academic Network of Experts on Disability “Disability Online Tool of the Commission”

<http://www.disability-europe.net/dotcom>

The Disability Online Tool of the Commission ((DOTCOM), launched in May 2012, is a publicly available online database containing information about laws and policies in 34 European countries (including all the EU Member States) and also the EU. The information contained in DOTCOM is collected by the European Academic Network of Experts on Disability (ANED)¹⁸ which is funded by the European Commission.

Currently, DOTCOM presents information on laws and policies concerning 43 different issues, selected for their relevance to the European Disability Strategy 2010-2020 and the CRPD. These 43 issues are organised into eight themes or headings, which are:

- A. the status of the CRPD;
- B. the general legal framework for disability rights;
- C. accessibility legislation and standards;
- D. independent living;
- E. education and training;
- F. employment;
- G. disability statistics and data; and,
- H. awareness-raising, training and international action.

Under each theme there are currently between three and nine items – each one representing a specific action or obligation placed on States Parties to the CRPD. Thus, for example, Theme B includes the following:

- B1. Anti-discrimination legislation
- B2. Recognition of legal capacity
- B3. Accessibility of voting and elections
- B4. Official recognition of sign language
- B5. National disability strategy and action plan

¹⁸ www.disability-europe.net

While B3 is focused specifically on political participation, other issues (eg on anti-discrimination legislation and recognition of legal capacity) also contain information relevant to this topic.

For each individual issue there is a factual summary description, written in English, with supporting web links to national legislation, official sources or other documented evidence. In total, the DOTCOM database describes and evidences more than 1,500 distinct policy measures across 34 countries and the EU (a combined account in excess of 300,000 words with more than 3,000 supporting links to primary sources).

4. Analysis of Political Participation in the European Blind Union Database

<http://www.euroblind.org/convention/>.

4.1 Introduction

The EBU's online CRPD database was established in 2008 and has been enriched on an on-going basis. It covers 40 countries and aims to provide information about national laws and policies implementing various CRPD Articles with particular relevance to blind and partially-sighted people.

The database is organised into different thematic strands reflecting different CRPD provisions. The structure of each of these thematic strands is provided by a series of questions, formulated by Philippe Chazal, chairperson of the EBU Commission on the Rights of Blind and Partially Sighted People, which are designed to address key concerns relevant to blind and partially sighted people. In response to each question, information about the national situation in the various EBU countries is provided by a designated EBU member from the relevant country.

One of the thematic strands included in the EBU database is political participation, linked to Article 29 of the CRPD. It is the EBU data collected on this topic that will now be analysed in some detail. It includes information about 19 countries. These, together with the abbreviations which will be used to refer to them in the tables below, are:

Full name	Abbreviation		Full name	Abbreviation
Albania	Al		Italy	It
Austria	At		Poland	Pl
Bulgaria	Bg		Russia	Rs
Croatia	Ct		Serbia	Sb
the Czech Republic	Cz		Slovakia	Sk
Denmark	Dk		Slovenia	Sl
Estonia	Es		Sweden	Sw
Finland	Fl		Switzerland	Sz
France	Fr		United Kingdom	UK.
Hungary	Hg			

The Article 29 information in the EBU CRPD database is divided into three sections. The first addresses participation in voting and elections; the second addresses participation in political organisations and administration; and the third addresses the existence and nature of visual impairment organisations. These three elements will be examined in turn in the remainder of this section. Data relating to the first two of the issues will be presented in summary tabulated form before it is subjected to a more in-depth analysis. The nature of the data on the third issue, however, does not lend itself to being presented in a table and accordingly no tabulated summary will be provided.

4.2 Voting and Elections¹⁹

4.2.1 Summary Tabulated Data

	Yes	No
Are there restrictions on formal entitlements to vote and be elected?		Al ²⁰ , At, Bg, Ct, Cz, Dk, Es, Fl ²¹ , Fr, Hg, It, Pl, Rs, Sb, Sk, Sl, Sw, Sz, UK,
Are specific steps taken to make electoral campaign information and activities accessible to VI people? ²²	Bg, Ct, Dk, Es, Fl, Fr, Hg ²³ , Sl ²⁴ , Sz, UK	Al, At, Cz, It, Sb, Sk, Sw,
Are there specific requirements or measures to ensure accessibility of polling stations for VI people? ²⁵	Al, At, Fl, Fr ²⁶ , Rs, Sl,	Bg, Ct, ²⁷ Cz ²⁸ , Dk, Es ²⁹ , Hg, It, Pl, Sb, Sw, Sz, UK
Are measures taken to ensure secret voting in polling stations?	Al, At, Ct, Fr, Pl, Rs, Sl, Sw, UK	Bg, Cz, Dk, Es, Fl, Hg, It, Sb, Sk, Sz
Are measures taken to facilitate/enable assistance in the polling station?	Al, At, Bg, Ct, Cz, Dk, Es, Fl ³⁰ , Fr, Hg, It, Pl, Rs, Sb, Sk, Sl, Sw, Sz, UK	
Are there accessible voting machines	Fr ³¹ , Sl ³²	Al, At, Bg, Ct, Cz, Dk, Es, Fl, Hg, It, Pl, Rs ³³ , Sb, Sk, Sw, Sz, UK

¹⁹ This title is slightly different from that used in the database but it is used because it better reflects the actual content of the information provided.

²⁰ This question is answered with a 'yes' in the database, but it is accompanied with an explanation which indicates that blind and partially sighted people are entitled to vote with assistance.

²¹ This question was answered in the affirmative for Finland, but the accompanying text indicates that the restriction is not one of formal entitlement to vote – but of the use of accessible information and polling cards.

²² It was not possible to include Poland or Russia, as the answers provided related simply to the existence of legal requirements, and not whether steps were in fact taken.

²³ This question was answered in negative terms but revealed that some (albeit minimal and isolated) steps are taken.

²⁴ This answer was answered in negative terms, but indicates that individual candidates may provide information in accessible formats.

²⁵ No answer was provided for Slovakia.

²⁶ Although it is noted that such steps are rarely carried out.

²⁷ Again, the answer discusses assistance but not the accessibility of the polling station as such.

²⁸ Again, reference was made to assistance but not to the accessibility of polling stations.

²⁹ Reference was again made to assistance but not to the accessibility of polling stations.

³⁰ This question was answered in the negative. However, information provided for Finland to question 1.4 indicates that assistance is available.

³¹ However, the answer is slightly equivocal.

³² But only at certain polling stations.

³³ Although they are currently being trialled.

4.2.2 Question by Question Analysis

This section of the database contains responses to seven questions. Only six of these have been presented in the table above, however, because two of the questions³⁴ were very closely related and the data provided for both coincided exactly.

Question 1 reads:

“Do ... VI people suffer any restrictions to their rights to vote and/or to be elected? ...”

Although the question seems to have been interpreted in slightly different ways by different country authors, it is clear from the answers provided that in none of the countries is there any law or other formal rule which restricts entitlements to vote or stand for election because of visual impairment. This unanimity is reflected in the table above. It stands in sharp contrast to the situation for people with intellectual or psychosocial disabilities, discussed in more detail in the work of FRA and ANED referred to above. They frequently encounter such legal barriers and this will obviously be relevant to blind and partially sighted people who have an additional intellectual or psychosocial impairment.

It is therefore clear that people in all the countries are not prohibited from voting and standing for election simply because of a visual impairment – as is in line with Article 29 of the CRPD. What does not emerge from the database, however, is the steps that States have taken to safeguard this entitlement by enabling blind and partially sighted people to bring legal challenges (eg for discrimination or for breach of a constitutional right) if they encounter obstacles which prevent them from voting or standing for election on an equal basis with others. The right to be free from discrimination (set out in Article 5 of the CRPD) is a cross-cutting right which is embedded in Article 29 as well as in all other substantive CRPD Articles. It would be helpful if, in future, EBU’s database were to provide information about whether actions for disability discrimination extend to the arena of voting and standing for election.

Question 2 reads:

“During election campaigns, what measures are taken to ensure that VI people are ensured full autonomy concerning the availability of information distributed by candidates, access to pre-electoral meetings, access to different campaign media?”

This question thus appears to address the extent to which specific measures are taken to ensure that electoral campaign information and activities are made accessible (within the meaning of Articles 9 and 21 of the CRPD) to blind and partially sighted people.

This question elicited a more differentiated picture of the state of affairs than did the first question discussed above. According to the responses provided, specific accessibility measures were taken in Bulgaria, Croatia, Denmark, Estonia, Finland, France, Hungary, Slovenia, Switzerland and the UK; but not in Albania, Austria, the Czech Republic, Italy, Serbia, Slovakia or Sweden. Information about whether or not steps were taken was not provided for Poland or Russia – their responses focusing on the existence of legal provisions rather than on what happens in practice.

³⁴ The fourth and fifth questions, both of which concern the secrecy of the ballot.

Of the 10 countries which indicated that specific accessibility measures were taken, half (Denmark, Hungary, France, Slovenia and the UK) explicitly drew attention to the fact that such measures were not consistently taken. Instead, they would sometimes be taken by some parties or some candidates and could thus not be relied upon.

Two countries (Estonia and Switzerland) drew attention to the importance of the role played by blind and partially sighted people's organisations in relation to these types of measure. The Estonian database entry refers to the active role played by such organisations at times of electoral campaigns, including by organising political meetings in which information is made accessible. The Swiss entry refers to the role played by such organisations in transcribing relevant information into accessible formats (such as audio) for blind and partially sighted people.

While the examples of positive steps are to be welcomed, there appears to be a general falling short of the accessibility standards imposed by the CRPD. Whilst visual impairment organisations may play a helpful role in ensuring that blind and partially sighted people have access to relevant information, the CRPD (through Article 29, in combination with Articles 9 and 21) places overall responsibility on the State to ensure that information and activities during electoral campaigns are accessible. The database does not currently reveal whether there are legal requirements imposed on political parties and broadcasters to this effect. Such information would be helpful as it would throw some light on the effort the State has made to encourage or require that accessibility is fully integrated into electoral processes.

Question 3 reads:

“Are special measures put in place to ensure that polling stations are accessible to VI people?”

In order to reflect the nature of the information provided by the majority of countries, the abbreviated version of this question used in the table above refers to both the existence of requirements to make polling stations accessible and to the existence of practical measures. Ideally, these two issues should have been separated into two separate questions as it is possible to have a requirement which is not implemented in practice, and to have practical measures which are taken not in response to the existence of a legal requirement. The question, as worded, appeared to focus on the latter issue but it was interpreted in different ways by different country authors. Thus, although affirmative responses were provided for Albania, Austria, Finland, France, Russia, Slovenia and the UK, Albania, Austria and the UK focused on the existence of legal requirements; Finland and Russia focused on the existence of practical measures; whereas France and Slovenia tackled both issues.

A number of countries answering this question in the affirmative (eg Albania and Austria) referred to general requirements that polling stations should be made accessible for disabled people without specifying the particular measures taken to ensure their accessibility for blind and partially sighted people. In some of these, the requirement is not couched in the language of 'accessibility' but is phrased in more ambiguous terms – eg 'free access' in Albania. Without more detail, it is not possible to ascertain precisely what sort of implications these general requirements have for blind and partially sighted people. The only clear example of a particular practical measure relating specifically to accessibility of polling stations for blind and partially sighted people was provided by Finland and concerned the existence of accessible way-finding and signage.

The responses provided for Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, Hungary, Italy, Poland, Serbia, Sweden and Switzerland did not disclose the existence of any such general or visual-impairment specific accessibility requirement or practical measure. However, in some instances (eg Bulgaria and Italy) reference was made to legal requirements or practical accessibility measures which would benefit people with physical impairments.

Several of these countries referred to the possibility of having assistance but, for present purposes, these were not interpreted as forms of accessibility provision (partly because assistance is covered in subsequent questions).

Question 4 reads:

“Within polling stations, what measures are taken to ensure that VI people can exercise their rights in an autonomous and confidential manner?”

This question is thus centrally concerned with the requirement, set out in Article 29(a)(ii) of the CRPD that States Parties should protect “the right of persons with disabilities to vote by secret ballot in elections and public referendums”.

The responses provided indicate that steps are taken to enable blind and partially sighted people to vote in a polling station without human assistance, and therefore in secret, in Albania, Austria, Croatia, France, Poland, Russia, Slovenia Sweden and the UK. In all of these countries, devices such as cardboard or Braille templates are available. In some countries (eg Austria and the UK) whereas in others (eg Poland) they must be booked in advance. In Slovenia, talking electronic voting machines are also available in selected polling stations in different municipalities.

In Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Hungary, Italy, Serbia, Slovakia and Switzerland, by contrast, such steps are not taken and it is therefore not possible for blind and partially sighted people to vote in secret in a polling station if they are unable to see to vote without human assistance. This is a matter of concern and falls short of the obligation placed on States Parties by Article 29(a)(ii). In countries where discrimination law extends to the field of voting, the fact that blind and partially sighted people are not permitted the opportunity to vote in secret may also found a claim for (indirect) discrimination.

Question 5 reads:

“In the case of proportional elections (by lists of candidates), what measures are taken to ensure that VI people can exercise their rights in an autonomous and confidential manner?”

This question again focuses on measures taken to enable blind and partially sighted people to vote in secret – although, unlike the previous question, it is not confined to voting in polling stations. Unfortunately, it did not yield any additional data and is therefore not subjected to detailed analysis here.

Question 6 reads:

“Are their measures in place to assist VI people in the polling booths and when casting their vote in the urns?”

This question was answered in the affirmative by all the country authors. However, the text they provide indicates interesting differences between countries.

The responses for several countries (Austria, Bulgaria, Denmark, Estonia, Finland,³⁵ France, Hungary, Poland, Serbia and Switzerland) expressly indicate that blind and partially sighted people were entitled to select an assistant of their own choosing to accompany them into the voting booth. Reference to an assistant of one's own choosing is made in Article 29(a)(iii) of the CRPD, which provides that States Parties must guarantee "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".

The responses for several other countries referred to certain limitations on the choice of assistant. Thus, in Albania and the UK, the selected assistant must either be an adult family member or another person who is registered to vote (at the same polling station in Albania; and anywhere in the country in the UK). Further, in Albania, the assistant may only assist one person in any one election. In Italy, the assistant must be on the Italian electoral register.

Reference was also made, in the Danish entry, to the restrictive procedures which regulate the provision of assistance by a person of one's own choosing. More precisely, it was noted that, due to a recent policy change, two electoral officials were required to accompany the visually impaired person and their chosen assistant into the voting booth in order to ensure no irregularities were taking place.

In relation to several countries (Finland, Hungary, Sweden, Switzerland and the UK) reference was made to the fact that blind and partially sighted voters can choose to have assistance from electoral staff instead of from a person known to them. In Albania and Italy, by contrast, electoral staff are not permitted to provide such assistance. The Bulgaria entry is the only one to refer to the need for electoral staff to receive disability-related training.

The information provided in response to this question by the 19 country authors demonstrates that personal assistance remains a very common means of enabling blind and partially sighted people to cast their votes. It also demonstrates a wide range of approaches to the regulation of who might provide this assistance and how it might be provided. The result is that, despite the apparent uniformity of approach, there exists considerable inconsistency of approach between different countries. There appear to be no very convincing reasons (apart from historical accident) to explain these differences in approach.

Question 7 reads:

"Are voting machines in place in your country? If yes, please detail how these are made accessible to VI people."

The only countries for which this question was answered in the affirmative are Slovenia and France. In Slovenia, one polling station in every municipality is required to be accessible and this includes having a talking electronic voting machine. In France, there is a legal requirement that any electronic voting machines which are used must be accessible, but there are currently only a small number of such machines in use.

³⁵ Although the answer to Question 6 indicates that there is no assistance, more detailed information about the various types of assistance available is set out in answer to Question 4.

In a number of countries (Denmark, Russia and Sweden), it is reported that efforts to trial and develop accessible electronic voting methods, including voting machines, are currently underway. In Estonia, although there are no electronic voting machines, electronic voting (eg using mobile phones or home computers) is accepted and is becoming increasingly common as a means of voting for blind and partially sighted people. The EBU database currently contains no specific question about electronic voting other than through voting machines. The experience of blind and partially sighted voters of electronic voting in Estonia would, however, merit closer analysis.

4.2.3 Data Relevant to Article 29 not yet included in this Part of the Database

In the analysis of a number of the questions above, reference has been made to ways in which the data provided would be enriched (for purposes of shining a light on the implementation of Article 29) by information on additional issues not currently addressed by the database questions. One important example concerns the availability of discrimination claims (including for failures to provide reasonable accommodation) in political participation contexts. Another important example concerns the existence of accessible electronic voting systems (other than through voting machines). Article 29 encourages States to develop new accessible technologies that would facilitate independent and secret voting for disabled people. Thus, Article 29(a)(iii) urges that States should be “facilitating the use of assistive and new technologies where appropriate”.

4.3 Political Organisations, Political and Administrative Office

4.3.1 Summary Tabulated Data

	Yes	No
Can VI people participate in political organisations without restriction?	Al, At, Bg, Ct, Cz, Dk, Es, Fl, Fr, Hg, It, Pl, Rs, Sb, Sk, Sl, Sw, Sz, UK	
Have any VI people been elected to political office? ³⁶	Bg, Cz, Dk, Fr, Hg, It, Pl, Rs, Sb, Sl, Sw, Sz, UK	Al, At, Ct, Fl, Sk
Are VI people entitled, on an equal basis with others, to hold administrative office? ³⁷	Al, At, Bg, Ct, Cz, Dk, Es, Fl, Fr, Hg, It, Pl, Sk, Sl, Sw, Sz, UK	Sb

³⁶ Information was not available for Estonia.

³⁷ No information was provided for Russia, as the question was interpreted slightly differently.

4.3.2 Question by Question Analysis

Question 1 of this part of the database reads:

“Can VI people in your country participate in an unrestricted manner in political parties, unions, public and political organisations and associations?”

This question is linked to Article 29(b) of the CRPD which, broadly, concerns the participation of people with disabilities in public affairs (other than through voting and elections). Given the focus of this element of the database on Article 29, it is slightly surprising that ‘unions’ are included in the ambit of this question. Trade unions are specifically mentioned in Article 27 of the CRPD (on employment) and might therefore have been expected to feature in the database entries dealing with employment. However, it is impossible to divide the issues covered by the CRPD into completely discrete self-contained units.

The database reveals that this question was answered affirmatively for all countries. Many of the answers are extremely brief but, where text is added, it reveals that authors interpreted the question as an inquiry about whether or not there were legal restrictions which limited the participation of blind and partially sighted people in relevant organisations. It should be noted that there would also have been room to interpret it as an inquiry into whether or not there were accessibility or other practical barriers which restrict such participation. It is possible that this was how the question was understood by authors who provided no explanatory text to support their answer. There is, however, no means of checking this. Nevertheless, it is clear that even if this was the case, a ‘yes’ answer would not have been provided if there were any legal restrictions. Accordingly, the value of the data provided is confined to the issue of legal restrictions – there being no solid basis for assuming that answers also address accessibility or other practical restrictions.

It may therefore be concluded that blind and partially sighted people are not legally prevented from participating in relevant organisations on an equal basis with others. In a number of countries (Albania and Slovenia), there is a constitutional right conferred on citizens to participate in political organisations. In France, it is reported that refusal to allow such participation would be punishable. Clear information about whether or not disability discrimination claims could be relied on as a means of challenging attitudinal or accessibility barriers to the participation of blind and partially sighted people in political organisations, however, is not currently included in the database.

Question 2 of this part of the database reads:

“Are their VI people ... who have been elected to political, trade-union or associative office in your country?”

In Bulgaria, the Czech Republic, Denmark, France, Hungary, Italy, Poland, Russia, Serbia, Slovenia, Sweden, Switzerland and the UK, the database indicates that blind and partially sighted people have been elected into such positions. While this is encouraging, the full implications are not possible to assess in view of the fact that information is lacking about the range and types of position to which people have been elected; the extent of their visual impairment (eg is it only people with mild degrees of visual impairment who are being elected); the numbers involved; and the existence of any trends over time (eg more blind and partially sighted people are being elected now than in the past). Collecting this type of data, however, would undoubtedly pose serious challenges. Distinctly less encouraging is the fact that in

Albania, Austria, Croatia, Finland and Slovakia no blind or partially sighted people were reported to have been elected to such positions.

Information provided in answer to this question appears to beg other questions relating to the participation of blind and partially sighted people in public and political life, which are not currently included in the EBU database. These additional questions concern the existence, if any, of accessibility-related barriers encountered by blind and partially sighted holders of these types of office to the carrying out of their duties and steps taken by the State to tackle or remove any such obstacles.

Question 3 of this section reads:

“Do VI people in your country have unrestricted access to administrative office, including at top-level?”

Again, there is scope for interpreting this question in different ways. In particular, it could be interpreted as inquiring about whether or not blind and partially sighted people are entitled to stand for and hold such office; or about whether they have access to the people who hold such office in the same way that non-disabled people would have access to them. From the answers provided, however, it seems that the majority of country authors interpreted it in the former way and accordingly this is how the question is described in the table above.

The database indicates that blind and partially sighted people are able to hold such office in all the countries apart from Serbia and possibly Russia. The question is not directly answered for Russia – the response focusing on the fact that currently no such positions are actually held by blind or partially sighted people instead of whether in theory they could hold them. The Serbian response is not explained or elaborated, making it impossible to know what form the restrictions take.

Thus, in the majority of countries it is reported that blind and partially sighted people may hold any level of administrative office. Nevertheless, several responses (Albania, Croatia, Denmark, Poland) add that in practice there are many types of attitudinal and accessibility barrier which would restrict access to high administrative office. The responses for Hungary and Slovakia also indicate that in practice very few such offices are held by blind and partially sighted people.

4.3.3 Data Relevant to Article 29 not yet included in this Part of the Database

Again, as mentioned above, it would be helpful to any analysis of the implementation of Article 29, if the existence and operation of prohibitions of discrimination in the political participation field were addressed in the EBU database. In addition, questions addressing the existence and nature of any barriers experienced by blind and partially sighted people who hold political or administrative office would be helpful.

4.4 Forming and Joining Disabled People’s Organisations

4.4.1 Question by Question Analysis

Question 1 of this part of the data base reads:

“Please give an overview of the number/type of associations or organisations representing VI people in your country.”

In response to this question, a number of country authors (for Albania, Austria, the Czech Republic, Denmark, Hungary, Serbia, Slovenia and Sweden) indicated only one key representative national organisation. For other countries (including Bulgaria, Finland, Poland, Slovakia, and Russia), one main representative organisation existed alongside smaller organisations representing particular groups of blind and partially sighted people. Thus, in Bulgaria and Russia, organisations of deaf-blind people exist alongside the main national representative organisation of visually impaired people. In Finland, an organisation representing Swedish-speaking visually impaired people exists alongside the main national representative organisation and in Slovakia there is a separate organisation for visually impaired children alongside the main representative body.

Elsewhere there appears to be a wider range of representative organisations of visually impaired people. In France and in the UK, however, reference is made to the existence of initiatives to co-ordinate efforts across such organisations

Finally, it should be noted that several of the responses made it clear that there was no brightline distinction between organisations that represent visually impaired people and organisations which provide them with services. This point emerged particularly powerfully from the Italian response to this question and also from the Finnish and Hungarian responses to the next question.

Question 2 in this part of the database reads:

“What is the role played by these associations in representing VI people?”

The responses to this question revealed a consistent pattern of advocacy and dialogue with policy-makers and others with a role in shaping law and policy (eg by the formulation of relevant advice and recommendations to government). On occasion (see eg France and Italy), these functions of particular organisations is recognised in statute.

Question 3 in this part of the database reads:

“How are VI people included in associations representing them?”

The responses from Austria, Croatia, Denmark, Italy, Slovakia and Slovenia indicate that visually impaired people have a controlling vote in the key national organisation representing visually impaired people (identified in their responses to the first question in this part of the database) and thus have control over the organisation’s governance. The responses from Albania, the Czech Republic, Estonia, Finland, Hungary, Poland, Russia, Serbia, Sweden and Switzerland make it clear that blind and partially sighted people are able to participate fully in relevant organisations but do not indicate whether they have control over the organisation. The responses from France and the UK indicate that the degree of control conferred on blind and partially sighted people varies from organisation to organisation.

4.4.2 Data Relevant to Article 29 not yet included in this Part of the Database

This part of the EBU CRPD database provides information broadly linked to Article 29(b)(ii) of the CRPD. This places obligations on States Parties 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

...

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

The database currently provides useful information on the existence and nature of organisations representing blind and partially sighted people, particularly at national level. However, at present it does not contain questions which would yield data about steps the State has taken to “encourage” blind and partially sighted people to form and join them. The entries for France and Italy both refer to legislation which does appear to provide such encouragement. However, as the database develops, it would be helpful to include questions with a stronger focus on steps the State has taken to encourage blind and partially sighted people to form and participate in disabled people’s organisations – including those which focus specifically on people with visual impairments.

5. Conclusion

In conclusion, it is clear that the EBU CRPD database has an important role to play. It has the potential to provide valuable impairment-specific data to complement pan-disability initiatives such as the DOTCOM database. The value of both would be enhanced were there stronger linkages between the two.

The EBU database is a living instrument and thus has the potential to be enriched by additional information. Already, it highlights some key concerns about the consistency of voting and election practices in many countries with Article 29 of the CRPD. In particular, the fact that blind and partially sighted people in Bulgaria, the Czech Republic, Denmark, Estonia, Finland, Hungary, Italy, Serbia, Slovakia and Switzerland are not able to vote in a polling station without human assistance raises serious concerns about their opportunity, on an equal basis with others, to vote by means of a secret ballot. Additional information on other issues would facilitate the identification of other potential areas of concern.

Finally the usefulness of the EBU database, on Article 29 and also on other Articles, would be considerably enhanced by the use of more targeted specific questions. Currently it is often not possible to ascertain whether responses are referring to the existence of legal requirements or to the existence of practical measures. This problem could be avoided were questions to be designed so as to focus either on indicators of structure, indicators of process or indicators of outcome. This would also have the merit of bringing the database into line with monitoring mechanisms recommended by the OHCHR and being used by the FRA.



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