

Advancing Accessibility in Europe in the context of the UN Convention on the Rights of Persons with Disabilities

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Overview

- Formal process of concluding the UN Convention
- EU Disability policy instruments (DAP)
- Accessibility and the UNC in the EU
 - Thematic work
 - Mainstreaming Instruments
- New European Disability Strategy

The UN Convention

- 13 December 2006 Adoption by the General Assembly
- 30 March 2007 Signed by the European Community
- 3 May 2008 entry into force
- Signed by all Member States
- Ratified by 11 MS (also the Option protocol but DK)
(AU, DE, HU, IT, ES, SL, SE, BE, PT, UK, DK)
- Commission proposal for Conclusion of the Convention and accession to Optional Protocol
– 29 August 2008

UN Convention

- To promote protect and ensure the full and equal enjoyment of all **human rights and fundamental freedoms** by all persons with disabilities
- Does not create any new rights!
- General Principles
- General obligations

UN Convention->EC proposal

- Procedural matters->for Conclusion (UNC+OP)
- Declaration of competences vis a vis MS
- Internal application to European institutions
- Reservation
- COHOM
- Governance (EC Participation to):
 - Conference of State Parties
 - Committee on the Rights of Persons with disabilities
- EC as Regional Integrations organisations + EC Institution:
 - Focal point
 - Independent mechanism
 - Coordination mechanism

UN Convention-European context

- UNC->Mix agreement
- Competences:
 - Exclusive
 - Shared
 - Support
- Examples:
 - Taxation
 - Single Market
 - Social policy
 - Disability policy
- Subsidiarity: Article 5 of the Treaty establishing the European Community.

UN Convention

- Optional protocol
 - Competence of the Committee of state parties
 - Submission of communications
 - Inquiries
 - Reports
- Participation of civil society

UN Convention implementation

- Annual disability Minister meeting
- Presidency Conclusions
- Annual Disability High level Group report on implementation
<http://ec.europa.eu/social/BlobServlet?docId=2790&langId=en>
- Annual Information Note
<http://ec.europa.eu/social/main.jsp?catId=431&langId=en>
- Annual Presidency Conference
- European Disability Strategy: Present and future

UN Convention & Standards

- **General obligations...realisation of Human rights**
- legislative, administrative measure, policies and programmes;
 - To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;

UN Convention art 9

- Accessibility to:
 - the physical environment
 - Transportation
 - to information and communications,
 - including information and communications technologies and systems & internet
 - other facilities and services open or provided to the public, both in urban and in rural areas
- **To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;**
- **private entities that offer facilities and services which are open or provided to the public**
- **Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost -> Design for All**

UN Convention

- Political and civil rights-> immediate applications
- Social, economical and cultural rights -> progressive application
- Other obligation and positive measures

Disability Action plan 2003-2010

- **Human Rights model of disability**
- **3 Communications on the situation of persons with disabilities:**
 - COM/2003/650
 - COM/2005/604
 - COM 2007/738
- **Key elements:**
 - Antidiscrimination legislation
 - Mainstreaming
 - Accessibility
 - Civil society

Disability Action Plan 2008-2009

- **The focus for the third phase (2008-2009) of the Disability Action Plan – ACCESSIBILITY- reflects the analysis of developments in the situation of disabled people and commitments on access to rights.**
- **2 Areas with 5 priorities:**
- **Actions for inclusive participation through accessibility:**
 - **Fostering accessibility of the labour market**
 - **Boosting accessibility of goods, services and infrastructures, addressing transport ICT and built environment.**
 - **Consolidating the Commission’s analytical capacity to support accessibility**
- **Actions towards full enjoyment of fundamental rights:**
 - **Facilitating the implementation of the UN Convention**
 - **Complementing the Community legislative framework of protection against discrimination**

Accessibility in the UNC and EU actions

- **UNC**
 - **Article 9**
 - **Accessibility General Principle**
 - **General Obligation**
- Area of shared competences
- General principle: (mainstreaming?)
 - Enabling; Copy Right, eComms, Public Procurement
 - Obligations: Structural Funds
- Research (accessibility and AT)
- Design for All knowledge, Network, CV
- Standards (mainstream, accessibility mandates)
- Training
- European Institutions Accessibility
- Legislation

Accessibility at EU level:thematic

- Transport
 - Regulations on Rights of persons with reduced mobility
- Ict
 - eAccessibility Policy
 - eComm Legislation
- Built environment
 - National and local
 - Construction Products?
- Antidiscrimination

Transport

- Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air OJ L 204, 26.7.2006, p. 1-9.
- Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations OJ L 315, 3.12.2007, p. 14–41
- Commission Decision 2008/164/EC of 21 December 2007 concerning the technical specification of interoperability relating to persons with reduced mobility in the trans-European conventional and high-speed rail system (notified under document C(2007) 6633), OJ L 64, 7.3.2008, p. 72–207
- Directive 2001/85/EC of the European Parliament and the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat, amending Directives 70/156/EEC and 97/27/EC (OJ L 125, 13.2.2002, p.1)
- Legislative proposal in maritime transport and for busses and coaches.

ICT

- Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)
- Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).
- These 2 Directives are currently under revision and the accessibility provisions have been reinforced in the Commission proposals.
- Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity
- Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.

ICT

- eAccessibility Communications in 2005 and 2008:
 - Design for All network and European curriculum
 - Develop accessibility standards
 - Implement web accessibility in public web sites
 - Research and technological development.
- Ministerial Declarations
- Council Resolutions
- Monitoring the progress.

Built environment

- Research
- Policy report: A Europe for All
- Standards
- Legislation
- Construction products

Member States	General legislation	Transport		Built environment		ICT	
		Legislation	Standards	Legislation	Standards	Legislation	Standards
		Regulation	Guidelines	Regulation	Guidelines	Regulation	Guidelines
Austria AT	N+R		N	R	N	N	
Belgium (federal) BE		N+R	N+R	R	R	N+R	N+R
Bulgaria BG		N	N	N	N	N	N
Cyprus CY	X	X		X			
Czech Republic CZ		X		X	X	X	
Germany DE	N+R	R		N+R	N+R	N+R	
Denmark DK		N	N	N			N
Estonia EE		N		N		N	N
Greece EL		N		N			
Spain ES	N	N+R		N+R		N	
Finland FI				X	X		
France FR	N	N	N	N	N	N	N
Hungary HU				X		X	
Ireland IE	N		N	N	N+R		N
Italy IT		N		N+R		N	
Luxembourg L		N		N	N		N
Lithuania LT							
Latvia LV		X	X	X	X	X	X
Malta MT	N			N	N		N
The Netherlands NL		N	N	N	N	N+R	
Poland PL		N		N		N	
Portugal PT	N	N	N	N+R	N	N	N
Sweden SE		N		N	N	N	N
Slovenia SI			N	N	N	N	
Slovak Republic SK		N		N		N	
United Kingdom UK	N	N		N	N		

General Funds Regulation 1083/2006

European Social Fund (ESF) European Regional Development Fund (ERDF) Cohesion Fund

- Article 16 of of Regulation (EC) 1083/2006
The Member States and the Commission shall ensure that
 - “equality between men and women and the integration of the gender perspective is promoted during the various stages of implementation of the Funds.”
 - “The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the Funds and, in particular, in the access to them.
 - In particular, accessibility for disabled persons shall be one of the criteria to be observed in defining operations co-financed by the Funds and to be taken into account during the various stages of implementation.”



Public Procurement Directives

- The preambles to the revised Directives (paragraph 29 of Directive 2004/18/EC and paragraph 42 of Directive 2004/17/EC) now state that:
“Contracting authorities should, whenever possible, lay down technical specifications so as to take into account accessibility criteria for people with disabilities or design for all users.”
- In addition, the specific Articles on technical specifications (Article 23, Paragraph 1 of Directive 2004/18/EC and Article 34, Paragraph 1 of Directive 2004/17/EC) now state that:
“Whenever possible [these] technical specifications should be defined so as to take into account accessibility criteria for people with disabilities or design for all users.”
- *Award phase...(art 53)*
the criteria on which the contracting authorities shall base the award of public contracts shall either:
 - (a) when the awards is made to the tender most economically advantageous from the point of view of the contracting authority, various criteria linked to the subject matter of the public contract in question, for example quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics,....*
 - (b) the lowest price*

Study on SOCIAL CONSIDERATIONS IN PUBLIC PROCUREMENT

- Promoting “Employment Opportunities”
 - promotion of on the job skill development programs including for persons with disabilities
- promotion of inclusive and accessible work environments
- anti-discrimination based on disability, race, ethnic origin, age, sexual orientation or religion or ex-offenders
- Supporting *Social Inclusion* and Promoting Social Economy Organizations,
- Promoting “Accessibility and Design for All”, e.g.:
- Taking into account “*Fair or Ethical Trade*” issues
- Case studies
- http://ec.europa.eu/employment_social/social/csr/080508_study_en.html

Accessibility related standards

- **Mandate 376: Accessibility requirements for public procurement of products and services in the ICT domain**
- **Mandate 420: Accessibility of the Built Environment**
- **Mandate 371 Services-tourism, transport**
- **Mandate 392 Domestic appliances**

Accessibility Mandates

- Work approach:
 - Inventory
 - Conformity assessment
 - **Self declaration – Third party**
 - **Voluntary – Mandatory**
 - **Reliable**
 - **Reproducible**
 - **Independent**
 - **Clear meaning**
 - **Transparent**
 - **Testable**
 - Standards development
 - Toolkit
 - Supporting participation of persons with disabilities

http://ec.europa.eu/enterprise/standards_policy/mandates/database/index.cfm?fuseaction=refSearch.search

Training of Stakeholders on consultations on standardisation

- to develop and implement training courses
 - for persons with disabilities to increase their effective participation in the standardisation process
 - for experts in standardisation to become familiar with disability accessibility issues.
- The long term aim is to ensure that accessibility requirements and disability issues are included in the standardisation deliverables for relevant products and services.

Art 13 EC Treaty proposal COM (2008) 426

- Scope
 - Social protection, including social security and healthcare;
 - Social advantages;
 - Education;
 - Access to and supply of goods and other services which are available to the public, including housing.
- Principle of equal treatment of persons with disabilities
- Art 4
 - Effective non-discriminatory access
 - Anticipatory
 - Conditions:
 - Disproportionate burden
 - Fundamental alteration
 - Provisions of alternatives
 - Reasonable accommodation
 - Conditions:
 - Disproportionate burden

Policy milestones: towards a new Strategy (1)

- First Ministerial meeting on Disabilities in 2007
- German Presidency conclusions:
 - Alignment of DAP and UNC
 - Involvement of HLG in the UN C implementation
 - Identification of common challenges and solutions

Policy milestones: towards a new Strategy (2)

- COM 2007/738 conclusion: commitment to tackle common challenges and solutions paves the way for national consistent and comparable targets to reflect the implementation of UNC
- Council Resolution (2008/ C 75/01) invites the Commission to begin work on a new European Disability strategy to succeed the current DAP assessing how national actions reflects EC and MS commitments to fully implement UNC and considering setting consistent and comparable national targets to that end.
 - Accessibility...the ongoing work on the development of shared European standards for accessibility should be promoted and its use in public procurement encouraged

Policy milestones: towards a new Strategy (3)

- Information note second Ministerial disability meeting:
 - Identification of areas for collaboration at EU level
 - Identification of priorities for common action
 - Accessibility
 - Development of consistent and comparable data, targets and indicators
- Information Note EPSCO Council
 - Enforcement of accessibility legislation
 - MS at various levels/stages of implementation
 - Variety of practices across MS
 - Common Actions:
 - Mutual learning
 - Good practices
 - Statistics and indicators
 - Standards
 - Work Forum
 - Training of users

Conclusion

- **UN Convention first Human Right Convention signed by the European Community**
- **New strategy->implementation UNC**
 - Common challenges and solutions (Accessibility)
 - National consistent and comparable targets
 - Annual ministerial meeting
- **Synergies and complementarities with MS**
- **Role of NGOs**
- **Commitment toward enjoyment of Human Rights of persons with disabilities**
- **People with disabilities as socioeconomic actors**
- **Cooperation with people with disabilities and other stakeholders.**