

ROADMAP

Title of the initiative: **EU Disability Strategy 2010-2020**
Lead DG: DG EMPL/G/3
Expected date of adoption: 10/2010

Initial impact assessment screening & planning of further work

A. Context and problem definition

What is the political context of the initiative? How does this initiative relate to past and possible future initiatives, and to other EU policies?

1) The current European strategy on disability

The current European strategy on disability (Disability Action Plan) was formulated for the years 2003-2010.¹ The DAP has been developed in two-year phases with the following policy priorities: in 2008-2009 the DAP focused on accessibility,² in 2006-2007 on active inclusion³ and in 2003-2005 on employment.⁴ The current strategy focuses on the activities carried out by the Commission at Union level. It aims to bring coherence to and coordinating the activities of the various Commission services. The strategy is based on 3 pillars: mainstreaming, accessibility and legislation against discrimination in employment.

A mid term evaluation of the DAP (VT/2007/008) identified several weaknesses such as lack of indicators and need for closer involvement of the Member States. Recommendations for future work were made i.e. to align the activities to the full implementation of the UN Convention on the Rights of Persons with disabilities.⁵

2) The UN Convention on the Rights of Persons with Disabilities

Since March 2007, all EU Member States have signed the UN Convention and a majority has signed its Optional Protocol too. The ratification by the Member States is underway. The European Union has also signed the UN Convention and the Council adopted the Decision for conclusion of the Convention in November 2009⁶. Furthermore the Commission has issued a proposal for a Council decision to accede to its Optional Protocol⁷.

The UN Convention is based on the human rights approach to disability, and its conclusion entails an obligation to bring the disability policy in line with this approach and to align current practices with the social model of disability. It addresses many areas where the Commission has active policies, from employment to transport, education and information society.

3) The call for a new European strategy on disability and its required parameters

In March 2008, the Council asked the Commission to begin working on a successor to the current European Disability Action Plan. In particular, the Commission is invited to consider setting consistent and comparable national targets to reflect how national actions comply with

¹ [Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Equal opportunities for people with disabilities: A European Action Plan /* COM/2003/0650 final */](#)

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0738:FIN:EN:PDF>

³ [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2005:0604\(01\):FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2005:0604(01):FIN:EN:PDF)

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0650:FIN:EN:PDF>

⁵ Mid term evaluation final report passim, including executive summary.

⁶ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:023:0035:0061:EN:PDF>

⁷ [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2008:0530\(02\):FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=SPLIT_COM:2008:0530(02):FIN:EN:PDF)

the commitment made by the EU and the Member States to fully implement the UN Convention on the Rights of Persons with Disabilities.

Relation to future initiatives

The new strategy is expected to propose actions at EU level, as does the current DAP, to complement actions taken at MS level and to propose the means to coordinate and monitor actions on Member State and other government sublevels in order to assess the implementation of the UN Convention.

To ensure genuine effectiveness of the new strategy, the Commission will examine the possibility of introducing indicators and targets along with the monitoring and evaluation mechanisms

4 Relation with other EU policies

Disability is a cross-cutting issue with a very wide scope, thus it is related to most of the EU policies. Many of the areas concerned by disability issues and specifically by the implementation of the UN Convention, such as combating discrimination on the ground of disability; free movement of goods, persons, services and capital; rail, road, sea and air transport, are under shared competences. Finally, many areas of vital importance to everyday life of persons with disabilities, such as content and structure of education, the norms for built environment and public spaces as well as social assistance are almost exclusively in the competence of the Member States. Nevertheless, also in these cases the Commission can support and complement national and local initiatives.

What are the main problems identified?

Situation of persons with disabilities

Based on data provided by Eurostat, the Commission estimates that there are approximately 50 million EU citizens with disabilities. They constitute one of the largest categories of vulnerable citizens in the EU.

Presently the proportion of persons with disabilities tends to be in the order of 10%⁸ of the working age population across the Member States, with current demographic trends likely to lead to a further increase.

Available evidence suggests that persons with disabilities suffer explicit or concealed discrimination or are at risk of discrimination.

1) Social and economic disadvantage:

- Employment rates for persons with very severe and severe degrees of disability are respectively 19,5% and 44,1%
- Incidence of poverty for persons with disabilities is 70% higher than average⁹

2) The limitations to the ability of persons with disabilities to work carry a significant risk of isolation and exclusion

- The "benefit trap" appears to be a significant obstacle for labour market participation of the persons with disabilities.

3) Less opportunities of persons with disabilities to participate fully in education carry a significant disadvantage for personal development

- Measures to facilitate full inclusion of persons with disabilities at all levels of

⁸ According to the 2002 Labour Force Survey special module, Europe-wide average share of persons who see themselves as restricted in their functioning is 10.4% of the labour force. Further 5.2% have a long-standing health problem but do not see themselves as restricted. As incidence of disability increases with age, these proportions are higher among elderly persons.

⁹ According to the 2004 EU-SILC data, over 17% of those aged 16-64 who were strongly limited in what they could do had income below the risk of poverty line compared to just over 10% of those not limited at all.

education would considerably improve their standing in the labour market and their social inclusion

The last two enlargements increased the number of persons with disabilities in the order of an extra 9 million persons. Standards of living in most of those Member States are substantially below the EU average which implies an increase of EU citizens with disabilities living in precarious situations. Differences across the EU also increase policy coordination difficulties. As the likelihood of having impairment or long-standing health problem increases with age, the current demographic trend will possibly lead to a further increase of the prevalence of disability. In this context, sustainability of pensions and benefits is an issue.

Many areas mentioned above, such as content and structure of education, norms for built environment and public spaces, leisure issues as well as social assistance are almost exclusively in the competence of the Member States. Often local authorities have a decisive role in monitoring these norms and delivering these services. Member States are tackling these issues, but in different manners and to different degrees with very little coordination.

Main causes identified

- 1) Insufficient availability of comparable and consistent data
 - The definitions of disability vary widely across the EU, as they are often used primarily for determining benefit entitlements and for political purposes. Data collected by the Member States - and their local authorities – therefore allow only limited comparisons.
 - Most EU-wide data-gathering exercises do not disaggregate respondents by disability status, the EU-SILC annual survey lacks detail and detailed disability surveys have been conducted rarely¹⁰.
- 2) Lack of a specific coordination process with indicators, monitoring, evaluation and feedback systems (eventually including common agreed targets), and exchange of good practices of Member States. This results from insufficient awareness and commitment to combat discrimination of persons with disabilities and to guarantee them equal opportunities. Such process should be established to fulfil some of the international obligations of the Member States and the EU taken by signing (and respectively ratifying or formally confirming) the United Nations Convention on the Rights of Persons with Disabilities.
- 3) Insufficient coherence of approach across the EU. Good practices in various Member States deserve recognition. The Open Method of Coordination in the area of Social Protection and Social Inclusion and in the area of Employment as it is operating presently do not seem to allow for addressing more specific issues important to persons with disabilities. There is a lack of targeted measures to complement the mainstreaming.
- 4) The market of goods and services directed specifically at persons with disabilities remains fragmented and expensive, as the potential of persons with disabilities as a relevant segment of consumers has been overlooked. Mainstream goods and services are often inaccessible to persons with disabilities
 - their requirements are not sufficiently taken into account in the product and service development
 - policy or regulatory frameworks, in particular general standardisation processes, do not take sufficient account of the needs of persons with disabilities.
- 5) The built environment is not sufficiently accessible for persons with disabilities.

¹⁰ Annual EU-SILC features just 4 questions related to disability, whereas LFS special module was conducted in 2002 and will be done again in 2011.

Explain how EU action is justified on grounds of subsidiarity

Problems faced by persons with disabilities can be identified and addressed at all levels, from local government to the global community. The Disability High Level Group has identified several common challenges for the Member States where they have an interest in working together towards common solutions such as accessibility, legal capacity, access to justice, independent living, voting rights, monitoring and reporting system based on common indicators and the empowerment of people with disabilities.¹¹

Employment and social protection/social inclusion are areas where EU action complements the measures taken by the Member States and can be justified on grounds of subsidiarity (Articles 5 TEU, 147 TFEU, 153 TFEU). Disability is a cross-cutting issue for both these areas.

The EU is competent to act in some areas related to implementing the UN Convention, such as the fight against discrimination (Article 19 TFEU) or issues related to the Single Market (Article 114 TFEU). Actions at EU level can be justified when the aim is to achieve a common basic level of protection across Member States, increase mobility of European with disabilities in Europe or to increase the level playing field and to enlarge markets.

In other areas, where there is no explicit EU competence, for example leisure issues or determining legal capacity, the added European value comes from providing a platform for the Member States to share experiences and good practices, to find solutions to common challenges.

Actions in a new disability strategy will also be directed at addressing citizens' concerns on mutual recognition of rights, mobility and possible market malfunctions as regards accessible goods and services. Success in this area will increase competition in the EU market and enhance competitiveness of EU enterprises. EU action on specific cross-border problems is often the most efficient means of safeguarding the rights of free movement of persons and of workers with disabilities inside the European Union.

Better coordination of disability policies between the Member States as well as with the EU will contribute significantly to greater cohesion in the EU (Article 174 of the TFEU) as well as to achievement of equal rights and equal opportunities for persons with disabilities across all Member States, to a true single market for accessible goods and services and to equal standards in implementing the UN Convention in all Member States.

¹¹ First Disability High Level Group report on implementation of the UN Convention on the Rights of Persons with Disabilities, p. 35-36.

B. Objectives of EU initiative

What are the main **policy objectives**?

General objective:

- *Policy aspect:* elimination of discrimination on the grounds of disability and securing full enjoyment of all human rights and fundamental freedoms for persons with disabilities as well as their active inclusion.
- *Formal aspect:* complying with the international commitments taken by the EU and the Member States when concluding the United Nations Convention on the Rights of Persons with Disabilities

The most important ***operational objectives*** for achieving the general objective can be grouped into three categories :

1. Governance segment:

- a) setting up a proper follow-up framework to comply with procedural obligations of the UN Convention taken by Member States and EU institutions, such as:
 - establish independent mechanisms to promote, protect and monitor the implementation of the UNC;
 - designate focal points for its implementation;
 - establish coordination mechanisms to facilitate related action in different sectors and at different levels.
 - comply with reporting obligations
- b) significantly improving monitoring, evaluating and addressing disability issues in European policymaking and implementation by:
 - creating conditions for improving the quality and comparability of data
 - developing relevant indicators and possibly common targets
 - collecting reliable data and statistics,

2. Thematic measures segment:

Identifying concrete and appropriate actions (e.g. legislation, policy, awareness raising, research etc.) at all levels (EU to local government) to comply with all substantive obligations of the UNC taken by Member States and EU institutions in areas such as:

- Accessibility, including access to built environment, mainstream goods and services (transport, ICT)
- Employment and social inclusion
- Education, especially inclusive education
- Healthcare
- Free movement,
- Independent living, institutionalisation and services in the community
- Participation in political and public life
- Participation in cultural life, recreation, leisure and sport
- Adequate standards of living and social protection
- Liberty and dignity
- etc¹² ...

3. Support Activities segment:

Identifying cross-cutting support activities, such as:

- exchange of information ,

¹² The provisions of the UN Convention should be used as a benchmark to identify relevant thematic areas

- exchange of good practices,
- experts dialogue
- awareness raising,
- research
- dialogue with civil society

Does the objective imply developing EU policy in new areas or in areas of strategic importance?

No. Even though the new strategy covers a wide range of policy areas in relation to implementation of the UN Convention, these areas are already within the scope of the present Disability Action Plan.

C. Options

What are the policy options? What legislative or 'soft law' instruments could be considered? Would any legislative initiatives go beyond routine up-date of existing legislation?

There are 3 main policy options:

1. Baseline scenario:

Continuation of the present level of EU activity by means of extending the timeline of the current Disability Action Plan. Actions to be taken in the future correspond to the priorities of Commission and the requirements of the UN convention.

2. Fundamental overhaul:

Concrete measures defined by the Commission (exhausting the full extent of EU competences whether exclusive, shared, supporting or coordinating) in the course of the strategy formulation process. Its essence is the remodelling of the Disability Action Plan into a new strategy, fundamentally strengthening its content.

This might be achieved by introducing new directly applicable legislation, establishment of a dedicated OMC, setting up of a specialised Agency etc...

For the areas under shared or MS competences, national objectives and targets will be set, where there are common challenges and where the need exists for co-ordinated actions and cohesive results. The Commission involvement will also aim at achieving maximum added value, for instance by monitoring the UNC implementation at European level.

3. Ambitious reinforcement:

This option consists of concrete measures defined by the Commission in the course of the strategy formulation process. Its essence is to ambitiously but flexibly reinforce the content of the Disability Action Plan. Ways, means and time limits of achieving the objectives will be sensitive to the existing constraints of the current socio-economic and political context.

A number of substantial improvements and adjustments shall be identified and scheduled for "phasing in" over the lifetime of the strategy, according to preparedness, feasibility and resource availability.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

Yes. Many departments responsible for a wide number of policies (transport, research,

information society, internal market, education, healthcare) are already involved in disability-related issues.

Explain how the options respect the proportionality principle

The problems outlined in the Section A are persistent and likely to grow if no decisive action is taken. Therefore, any decisive action within the limits set by the Treaties would appear to be proportional to the problem.

Option 1 - engagement at present level has increased the attention to disability matters in EU actions, but has produced neither enough improvement in the actual situation of persons with disabilities nor enough coherence among MS. This response can not be regarded as wholly proportional to the *problems* as many of the problems require both direct action at national level and increased coordination among the MS using EU-wide solutions. This option appears to fall short of requirements for policy objectives and operational goals set above.

Option 2 - Given the scale and persistence of the challenges, directly applying the instruments exhausting the full extent of the EU competences to achieve objectives and targets in most areas covered by the UN Convention could also be a proportionate response to the *problems*, especially given that the Member States are adapting and developing their respective frameworks to conform to the obligations taken by signing the UN Convention.

However, the changes required in the current practices in the Member States might take this option beyond the "least demanding option" level, especially considering that some ongoing investments in solutions and processes would require significant changes if, for example, all disability-related legislation, in areas of EU competence would be harmonised at the EU level. Moreover, many operational goals described in Section B can be achieved in less demanding ways, such as OMC and other voluntary arrangements by the Member States.

In some areas covered in the UN Convention (like sports or leisure) a maximalist approach would lead to overregulation, whereas other instruments like exchange of good practices and awareness-raising could be adequate to reach the aims. Other issues of the UN Convention, like increasing competences on disability matters, could be better addressed through training.

Option 3 - This option allows the Member States and the EU to select the most suitable tools for each area identified in the "policy objectives" section. All parties involved will also continue to take advantage of their ongoing actions and methods of work. The novelty concentrates on complementing activity and reinforcing cooperation among MS as well as defining common goals, actions and measurement of progress. Given that both the main policy objectives and the operational goals require a significant amount of coordinated action by the Member States as well as coordination with the European Union, measures proposed are proportionate to the challenge without going beyond what's necessary while being conform to the requirement for the least demanding option as considerable freedom of action will still remain at the MS level.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the impact assessment guidelines), even if these impacts would materialise only after subsequent Commission initiatives?

Option 1 Continuing disability actions on the European level only provides a limited scope for improvement. Whereas positive influence of measures already initiated can be expected to continue, the operational objectives are unlikely to be attained.

Implementation of the UN Convention in a coherent manner is unlikely without increased coordination between MS and the EU. Furthermore, as the likelihood of having an impairment or a long-standing health problem increases with age, the current demographic trend means that the problems insufficiently addressed by the present DAP will increase over time. Standing still may mean going backwards in real terms. Social impacts of Option 1 coordination may include stagnation of *integration of persons with disabilities* in some Member States. De facto *barriers to free movement of accessible goods and assistive technologies, higher prices of accessible goods caused by a low level of competition and segmentation of markets* are likely to have negative impacts on EU economic performance and competitiveness.

Option 2 The option of fundamental overhaul has virtues such as precision in terms of requirements and implementation along with effectiveness and great degree of harmonisation. However, exhausting the full extent of EU competences could have undesirable impacts such as overregulation, lacking flexibility and excessive burden of compliance. Option 2 is expected to have positive social impacts such as *better integration of and more equal opportunities for persons with disabilities* as well as *better harmonised quality of social service provisions*. Positive economic impacts can be expected to include reduction of barriers to *free movement of accessible goods and assistive technologies, less market segmentation, higher incentives for research and development, increased employment in social services*. This option will have a positive impact on availability of accessible goods and services. This can be shown to lead to *more sustainable production and consumption*.

Option 3 Ambitious reinforcement is expected to produce substantial positive impact in the following areas:

- Fulfilling the obligations taken by signing and concluding the UN Convention
 - Improved quality and comparability of data will help Member States and the Commission to make more informed decisions and to target their actions more precisely.
- Improving social and economic situation of persons with disabilities, especially in the areas not served well enough by the current Disability Action Plan
 - Indicators, and eventually targets, will foster the search for best available innovative solutions
 - Increasing education and employment of persons with disabilities will contribute to improving their economic situation and to facilitating their social participation leading to *greater equality*.
 - Coordinated awareness campaigns, good targeting of studies or pilot projects and well-designed involvement of all relevant actors will translate into more effective and efficient work to solve the problems in the disability area, thus promoting *non-discrimination, equal treatment and equal opportunities for all*.
 - Improving the *functioning of the internal market* and enhancing *competitiveness* in the disability related products and services sector.

Balancing of needs of persons with disabilities with interests of stakeholders like industry and business would facilitate the development of common requirements for accessibility and product design, which will have a positive impact on *research and development*. This will *improve functioning of the internal market and increase competition*, leading to better *quality and availability of accessible products* and services with *lower prices for consumers* and strengthening of the *competitiveness* of European industry.

- Common accessibility requirements of goods and services can be shown to lead to *more sustainable production and consumption and social innovation*.

In view of the progress already made under the current Action Plan, ambitious reinforcement appears to have a potential to succeed, as it aims to remain flexible and respect the traditions of the Member States. Other vulnerable groups in society, such as older persons, will benefit from the ambitious reinforcement option, as it will be sufficiently flexible to accommodate input from diverse stakeholders.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No. All options will continue to use already available funds.¹³

Could the options have significant impacts on simplification/administrative burden or on relations with third countries?

No, for all options the burden of additional coordination is expected to be insignificant – subject to verification in the staff working paper (supported by a preparatory study).

Some positive impacts are expected on development cooperation as the new strategy is likely to facilitate achievement of disability policy objectives of third countries.

Who is affected?

Firstly, the citizens of the EU, in particular the persons with disabilities and older persons, who experience impairments more frequently than average citizens. Further beneficiaries include Member States administrations, industry and business. For details please see initial assessment of impacts above.

E. Planning of further impact assessment work

What information and data is already available? What further information needs to be gathered? How will this be done (e.g. internally or by an external contractor) and by when? What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Preparatory work for assessing eventual impacts was started in September 2009. However, this work demonstrated that the substance of this initiative does not lend itself well to the IA approach:

- it is largely shaped by an international treaty, which puts obligations on

¹³ According to the Annual Activity Report of DG EMPL, the ESF spends 4% of its funds on persons with disabilities 4%, whereas their share in population is at least 10.4%.

contracting parties - the UN Convention on the Rights of Persons with Disabilities. No impact assessment is commonly required in such cases. Moreover, the EU role and obligations under this treaty underlie to well-defined limitations, which are different according to the thematic areas.

- the nature of the initiative, and specifically of any option considered, is very broad.

Under these circumstances, a staff working paper would be the best form of accompanying document for the Disability Strategy 2010-2020.

Future specific Commission proposals made in the framework of the Strategy will be, where relevant, subject to separate impact assessments.

Available data include regular assessments of the social protection and social inclusion policies and employment policies on the basis of common European indicators, National Strategy Reports, contributions from a network of independent experts (ANED). Statistics from EUROSTAT (EU-SILC, LFS, HIS) provide some quantitative data but they are not available on a regular basis and are not recent.

Interpretations of available data are made in studies, such as "Study on men and women with disabilities in the EU: statistical analysis of the LFS ad hoc module and the EU-SILC". Other studies are based also on national information sources like the "Study of compilation of disability statistical data from the administrative registers of the Member States"; and on concrete surveys like the "Study on the specific risks of discrimination against persons in situation of major dependence or with complex needs". The "Midterm Evaluation of the Disability Action Plan 2003 - 2010" provided useful insights in results of the DAP.

General information is also available in studies such as "Study on challenges and good practices in the implementation of the UN Convention"; "Study on the Situation of Women with Disabilities in Europe in light of the UN Convention". Furthermore, various sector studies have been carried out by TREN, INFSO and RTD addressing the areas for example of transport and ICT. A substantial work in exploring the data available from the MS has been done by the academic network on disability (ANED) in the framework of the analysis of SPSI and Employment OMCs reports.

However, the lack of recent, sufficiently detailed and comparable¹⁴ statistical data at European level on all the areas mentioned above makes application of quantitative methods in strategy development difficult. Further information for certain areas can be compiled from national or international sources. Complementary qualitative assessments and extrapolations in allow to assemble a general picture of the situation in Europe, which is usable for practical purposes.

A specific study to support the preparation of the staff working paper by compiling socio economic data and analysis of the UN Convention objectives is ongoing. Areas of focus for the staff working paper are clear identification of problems and corresponding objectives, monitoring and evaluation, measurement of administrative burden, cost-benefit analysis.

The type and level of analysis that can be and will be carried out following the detailed elaboration of the various options of the strategy and will depend on its content and precise instruments chosen. Among the instruments under consideration for the strategy are presently

¹⁴ The definitions of disability vary widely across the EU, as they are often used primarily for determining benefit entitlements and for political purposes. Due to these differences, the data collected by the Member States - and their local authorities - allows only limited comparisons.

non-legislative as well as legislative actions and reorientation of existing expenditure programs.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Member State experts have been consulted from the beginning of the strategy formulation process. **The High Level Group** meeting of 1 and 2 April 2009 included a first exchange of opinions on priorities and objectives. This was followed up by discussions in the meetings of 22 June, 14-15 October 2009 and 23-24 March 2010. Member States continue to be closely associated with the strategy formulation process through the HLG, and have the opportunity to make contributions also outside that framework.

ISG Disability includes representatives of the SG and DGs ENTR, MARKT, TREN, RTD, JRC, INFSO, REGIO, TAXUD, EAC, SANCO, JLS, RELEX, DEV, ESTAT, ADMIN, SCIC, OPOCE, EMPL. It expressed their views for the first time on 18 February 2009. Discussion was continued in the meetings of 8 October 2009 and 16 April 2010.

Additionally, bilateral meetings on the new disability strategy were held with a number of Commission services in the beginning of 2010.

All **NGOs** financed through the Progress programme were invited to put forward their views as all participants of the yearly conference of the European Day of Persons with Disabilities.

A **public online consultation** was held from 4 November 2009 to 4 January 2010. The extensive questionnaire received 336 replies, including 101 on behalf of a wide variety of organisations. 9 targeted responses were received separately. The Members of the DHLG were encouraged to respond and raise awareness on the consultation at national level.

A **consultative workshop** was held on 5 March 2010 to consult the main stakeholders (civil society, social partners and industry representatives) on the problem description, the objectives, the policy options and the impacts.