



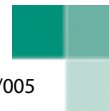
Annotated review of European legislation which makes a reference to disability

Prepared for the Academic Network of European Disability experts (ANED)

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Background and Method

This annotated review provides an overview of EC legislation which make an explicit reference to disability. The review covers both disability specific and mainstream instruments, and therefore also provides evidence of the extent to which disability is being mainstreamed in different areas of EU law. The summaries and examples presented here relate to primary and secondary legislation in force at the European level, and were reviewed during 2008.

The Academic Network of European Disability experts (ANED) was established by the European Commission in 2008 to provide scientific support and advice for its Disability Unit. In particular, the activities of the Network support the development of the EU Disability Strategy and practical implementation of the United Nations Convention on the Rights of Persons with Disabilities. The Network is co-ordinated by Human European Consultancy (Netherlands) and the Centre for Disability Studies at the University of Leeds (UK).

One of the functions of ANED is to establish a mechanism for monitoring and evaluating European laws and policies that affect disabled people (e.g. European legislation, communications and resolutions of the Council, Parliament and Commission, and of associated committees). The resulting summaries and details on laws and policies are made available via the [ANED website](#) for the benefit of the research community, policy makers and other stakeholders.

This review includes references to ‘disability targeted legislation’ or disability specific legislation (of which there is relatively little at European level) and non-specific (mainstream) legislation, which includes an explicit disability dimension. For example, there are references to disability in European legislation on: rail, bus, sea and air travel; telecommunications; lifts; the implementation of the structural funds; public procurement; medicine labelling; etc. The review also covers EC non-discrimination legislation which prohibits discrimination on the ground of disability in the field of employment.

Approximately 100 Regulations, Directives, Decisions, other Acts, and International Agreements adopted or concluded since 2003 are reviewed. Each instrument has been inspected and annotated. The individual annotations are presented in the appendices to this report.

While all of the legislative instruments identified were technically ‘in force’ at the time of review, those marked with an asterisk (*) established an action or initiative of limited duration, which has now come to an end (such as the Decision establishing the European Year of People with Disabilities 2003).

The process of review is ongoing and data on the website will be updated with reference to new legislation and details of non-legislative policy instruments. It is therefore advisable to consult the relevant web pages for up-to-date information.



Part I: Thematic summaries

The following summaries are classified according to the administrative categories used in the European Community's [Eurlex system](#).

01. General, Financial and Institutional Matters

Accessibility, equal opportunities and social inclusion for people with disabilities are relevant with regard to some of the institutional matters of the European Union. Disability is addressed in instruments relating to the employment of EU officials and in codes of conduct for the employees of EU institutions. In addition, the instrument addressing access to EU documents includes a reference to accessibility requirements for people with disabilities, such as those with visual impairments.

Annotated instruments

1. Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents
2. *Decision No. 771/2006/EC of the European Parliament and of the Council of 17 May 2006 establishing the European Year of Equal Opportunities for All (2007) — towards a just society (Text with European Economic Area relevance)
3. Commission Decision(s) No. 96/564/EC-96/566 (Euratom, EC) of 11 September 1996 and No. 90/176-90/180 (Euratom, EEC) EEC of 23 March 1990 authorizing several particular Member States not to take into account certain categories of transactions and to use certain approximate estimates for the calculation of the VAT own resources base
4. Charter of Fundamental Rights of the European Union
5. Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights
6. Council Decision 2008/203/EC of 28 February 2008 implementing Regulation (EC) No. 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007-2012

02. Customs Union and Free Movement of Goods

The European Community set up a Community system of relief from customs duty for certain goods and services from outside the Community in the 1980s. Within this system, several legal instruments exempt some goods and services for the benefit of people with disabilities or people with visual impairments, from duties.

Annotated instruments

1. Council Regulation (EEC) No. 918/83 of 28 March 1983 setting up a Community system of relief from customs duty
2. Commission Regulation (EEC) No. 2289/83 of 29 July 1983 laying down provisions for the implementation of Articles 70 to 78 of Council Regulation (EEC) No. 918/83
3. *Council Decision of 8 May 1979 on the conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials (No 79/505/EEC)



03. Agriculture

Disability is referred to in the general non-discrimination clause within the European Agricultural Fund for Rural Development, and there is one example of EC legislation providing a specific exemption from an obligation for farmers who have a disability which renders them unable to work.

Annotated instruments

1. Council Regulation (EC) No. 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
2. Commission Regulation (EEC) No. 1391/78 of 23 June 1978 laying down amended rules for the application of the system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds

05. Freedom of Movement for Workers and Social Policy

The main focus of disability related EC legislation is Employment and Social Policy. A wide range of relevant instruments exist in this field. The most important initiatives include:

- Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (*Employment Equality Directive*);
- the European Structural Funds relating to employment and social affairs, and, in particular, the *European Social Fund (ESF)*;
- the enforcement of *uniform standards to protect health and safety*, including many specific regulations regarding the safety of people with disabilities at the workplace;
- several EU *action programmes* (such as The European Year of People with Disabilities 2003), which address the promotion of equal opportunities for people with disabilities.

The *Employment Equality Directive* is of key importance, as it obliges Member States to prohibit discrimination on, amongst others, the ground of disability with regard to employment and vocational training. The obligation on employers to provide for *reasonable accommodations* in order to meet the needs of individuals with a disability results from this Directive.

The *European Social Fund* is a key financial tool allowing the EU to translate its disability employment policy aims into action. It is difficult to identify the overall amount of ESF money allocated to projects which benefit people with disabilities, as some Member States have a rather "broad" targeting policy for groups experiencing problems in accessing the labour market. Most Member States use some ESF funds to promote labour market integration for people with disabilities through a range of actions, including work experience schemes, wage subsidies, temporary sheltered



employment and other intermediate labour market steps. Support can also be provided for self employment.

Health and safety at the workplace are of importance for all workers. However, ensuring the health and safety of people with disabilities may require particular measures and this is recognised in EC legislation.

Other instruments which address disability in this field include Council Guidelines with regard to national employment policies, and EC Regulations regarding the application of national social security schemes to (self) employed persons (and their families) moving within the Community. This is of importance, as the loss of *social protection* – which in general still falls within the competence of Member States – might present barriers to the free movement of workers with disabilities in particular.

Addressing the issue of disability is also important in the field of EU *statistics*. Member States are obliged to provide data on various issues regarding disability. The goal is to create a system for establishing reliable and comparable data between the Member States on disabled persons and on their integration into social life. Comparable data is vital to enable the Member States and the Community to plan, monitor and evaluate initiatives taken at national and Community level.

Annotated instruments:

1. Regulation (EC) No. 458/2007 of the European Parliament and of the Council of 25 April 2007 on the European system of integrated social protection statistics (ESSPROS) (Text with European Economic Area relevance).
2. Regulation (EC) No. 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund
3. Regulation (EC) No. 1177/2003 of the European Parliament and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) (Text with European Economic Area relevance)
4. Council Regulation No. 574/72 (EEC) of 21 March 1972 laying down the procedure for implementing Regulation (EEC) 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community
5. Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
6. Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
7. Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
8. Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and

- underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
9. Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes
 10. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
 11. Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast directive)
 12. Council Decision 83/516/EEC of 17 October 1983 on the tasks of the European Social Fund
 13. *Council Decision 2001/903/EC of 3 December 2001 on the European Year of People with Disabilities 2003
 14. *Council Decision 2005/600/EC of 12 July 2005 on Guidelines for the employment policies of the Member States
 15. *Decision No. 771/2006/EC of the European Parliament and of the Council of 17 May 2006 establishing the European Year of Equal Opportunities for All (2007) — towards a just society (Text with European Economic Area relevance)
 16. Council Decision 2008/618/EC on Guidelines for the employment policies of the Member States
 17. *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, on an assessment of the European Year of People with Disabilities 2003
 18. Council Resolution of 15 July 2003 on promoting the employment and social integration of people with disabilities

06. Right of Establishment and Freedom to Provide Services

The right of establishment and the freedom to provide services within the Community are of key importance to the internal market. Nevertheless, some exemptions are allowed with regard to certain services for the benefit of people with disabilities. These exemptions consist, for example, in allowing for the maintenance of free (public) postal services for people with visual impairments, or an obligation for Member States to oblige media service providers to ensure that their services are gradually made accessible to people with a visual or hearing impairment.

In practice, public procurement constitutes a significant means of influencing the behaviour of economic operators. Under EC law, contracting authorities and entities are allowed, or can be required, to implement various aspects of a (disability) equal opportunity policy when awarding contracts. Certain EC Directives establish the right for public authorities to award some public contracts to organisations providing sheltered employment for disabled people.

Annotated instruments



1. Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services
2. 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 (Text with European Economic Area relevance)
3. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts
4. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors

07. Transport

Many people across the European Union have some form of mobility impairment which makes accessing *public transport* systems difficult. A long-term aim of the Commission and of associations of transport authorities and operators is to ensure that public transport is accessible for all. With this aim in mind, several EC instruments have been adopted. These involve measures establishing technical standards applicable to means of transport and transport infrastructure; technical prescriptions for accessible vehicles to be used for urban passenger transport; disability accessible signs and information for travellers; and compulsory training courses on disability awareness and the specific needs of people with disabilities for drivers and other transport personnel.

As follows from the overview of legal instruments in the field of transport, the current stage of implementation of these different measures varies between the different modes of transport. With regard to air and rail transport, the important Regulations no. 1107/2006 and no. 1371/2007 have only been adopted recently. These regulations establish several rights for passengers with disabilities, among which a prohibition to refuse persons with disabilities from travelling and an obligation to accommodate disabled passengers. Rail passengers have the right to receive assistance to facilitate independent travel.

With regard to *private transport*, a directive prescribes uniform regulations regarding the issuing of driving licenses. Besides establishing adapted provisions and rules in order to enable people with disabilities to obtain a driving license, the directive prescribes that all examinees should have certain knowledge about road users with disabilities or reduced mobility. Finally, a standardised parking card for people with disabilities has been introduced. This allows people with disabilities to take advantage of the special parking facilities available in each Member State using their nationally issued card.



Annotated instruments

1. Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations
2. Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos. 1191/69 and 1107/70
3. Regulation (EC) No. 1899/2006 of the European Parliament and of the Council of 12 December 2006 amending Council Regulation (EEC) No. 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (Text with European Economic Area relevance)
4. 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 (Text with European Economic Area relevance)
5. Regulation (EC) No. 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No. 295/91 (Text with European Economic Area relevance) - Commission Statement
6. Council Regulation (EC) No. 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State
7. Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast) (Text with European Economic Area relevance)
8. Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast) (Text with European Economic Area relevance)
9. 2006/87/EC Directive of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC
10. Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No. 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC
11. Directive 2003/24/EC of the European Parliament and of the Council of 14 April 2003 amending Council Directive 98/18/EC on safety rules and standards for passenger ships
12. Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons
13. Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular roll on – roll off ferry and high-speed passenger craft services
14. Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system
15. Council Directive 91/439/EEC of 29 July 1991 on driving licences

16. Council Recommendation 98/376/EC of 4 June 1998 on a parking card for people with disabilities
17. Commission Regulation (EC) No. 8/2008 of 11 December 2007 amending Council Regulation (EEC) No. 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (Text with European Economic Area relevance)
18. Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the EP and of the Council on the interoperability of the trans-European conventional rail system

08. Competition

Article 92 (1) of the EC Treaty stipulates that “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market”. However, in order to create more equal opportunities for certain groups of people with disabilities, the restrictions on state aid are somewhat relaxed with regard to aid which supports the employment or training of people with disabilities.

Annotated instruments

1. Commission Regulation (EC) of 6 August 2008 declaring certain categories of aid incompatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation)

09. Taxation

Article 13(A)(1) of Directive 77/388/EEC of 17 May 1977 requires Member States to exempt from VAT “certain activities in the public interest”. These activities include hospital and medical care, goods and services closely linked to welfare and social security or the protection of children and young persons, education and training for young persons etc.. Many organisations working in the field of disability are involved in the provision of just such services and their transactions are exempt from VAT as a result, provided that they obtain prior authorisation from the Member State in which they are established. This means these organisations are exempt from the need to file VAT returns or to charge VAT to their clients. In addition, under Article 13(A)(2) of Directive 77/388/EEC Member States can grant any of the listed exemptions to any body (other than those governed by public law), subject to a number of conditions designed, in effect, to ensure that exempt bodies are bona fide non-profit organisations whose activities will not affect the competitive position of taxed commercial enterprises.

In addition to the exemptions mentioned above, reduced VAT rates for certain goods and devices for people with disabilities are authorised by EC law.



Annotated instruments

1. Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax
2. Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (Text with European Economic Area relevance)
3. Council Directive 83/181/EEC of 28 March 1983 determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods
4. Council Decision 2006/774/EC of 7 November 2006 authorising certain Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC

10. Economic and Monetary Policy and Free Movement of Capital

The Euro coins are explicitly designed to take into account the needs of people with visual impairments.

Annotated instruments

1. Regulation (EC) No. 1927/2006 of the European Parliament and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund
2. Council Regulation (EC) No. 423/1999 of 22 February 1999 amending Regulation (EC) No 975/98 on denominations and technical specifications of euro coins intended for circulation
3. Council Regulation (EC) No. 975/98 of 3 May 1998 on denominations and technical specifications of euro coins intended for circulation

11. External Relations

The European Union recognises the importance of the contributions made by international, regional and non-governmental organisations to civil society and to the development of democratic societies that respect political, economic and social rights, including the rights of people with disabilities. The EC has therefore established some financial instruments in order to promote human rights in third countries. Furthermore, the Council has set several conditions in so-called Accession Partnerships with certain third countries (such as Turkey and the republics of the former republic of Yugoslavia), requiring *inter alia* various improvements with regard to the rights and circumstances of people with disabilities in those countries.

Annotated instruments

1. Commission Regulation (EC) No. 718/2007 of 12 June 2007 implementing Council Regulation (EC) No. 1085/2006 establishing an instrument for pre-accession assistance (IPA)
2. Regulation (EC) No. 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide

3. Regulation (EC) No. 1905/2006 of the European Parliament and of the Council of 18 December 2006 establishing a financing instrument for development cooperation
4. Council Decision 79/505/EEC of 8 May 1979 on the conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials

13. Industrial Policy and Internal Market

The area of industrial policy is of importance for people with disabilities as it concerns the safety and accessibility of buildings in general, and work places in particular. In this respect, important Directives have been adopted with regard to *lifts*, and to the accessibility of (*electronic*) (*tele*)*communication networks*, which ensure or facilitate (by enabling Member States to take action) accessibility of those respective services to people with disabilities.

Annotated instruments

1. Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (Text with European Economic Area relevance)
2. Directive 2007/47/EC of the European Parliament and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market (Text with European Economic Area relevance)
3. Directive 2006/42/EC of the European Parliament and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast) (Text with European Economic Area relevance)
4. Directive 2005/40/EC of the European Parliament and of the Council of 7 September 2005 amending Council Directive 77/541/EEC on the approximation of the laws of the Member States relating to safety belts and restraint systems of motor vehicles (Text with European Economic Area relevance)
5. Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use (Text with European Economic Area relevance)
6. Directive 2003/102/EC of the European Parliament and of the Council of 17 November 2003 relating to the protection of pedestrians and other vulnerable road users before and in the event of a collision with a motor vehicle and amending Council Directive 70/156/EEC
7. 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)

8. 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)
9. Directive 2001/85/EC of the European Parliament and of 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, and amending Directives 70/156/EEC and 97/27/EC
10. Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system
11. Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')
12. Directive 2000/9/EC of the European Parliament and of the Council of 20 March 2000 relating to cableway installations designed to carry persons
13. 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
14. Council Directive 95/16/EC of the European Parliament and the Council of 29 June 1995 on the approximation of the laws of the Member States relating to lifts
15. Decision No 1336/97/EC of the European Parliament and of the Council on a series of guidelines for trans-European telecommunications networks
16. Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) - Statements by the Commission
17. 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) (Text with European Economic Area relevance)

14. Regional Policy and Coordination of Structural Instruments

The EC has established several programmes and funds in order to reduce economic and social inequalities between regions and social groups. Many of these instruments pay particular attention to the position of people with disabilities on the labour market. Furthermore, the Council of Ministers has laid down strategic guidelines for Member States on cohesion. These guidelines contain several provisions regarding combating discrimination and social exclusion of people with disabilities, and promoting accessibility. Moreover, one of the aims of the European Social Fund (ESF) is to combat social exclusion and promote the participation of people with disabilities in the labour market (see Section 5 above on Freedom of Movement of Workers and Social Policy).

The European Regional Development Fund (ERDF) aims to promote economic and social cohesion in the European Union by supporting action aimed at reducing inequalities between regions. Financial assistance from the ERDF is mainly targeted



at supporting small and medium-sized enterprises, promoting productive investment, improving infrastructure and furthering local development. Of particular importance for people with disabilities are the interventions of the ERDF in investment for education, health, vocational training and transport infrastructures. Accessibility for persons with disabilities is 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.

Annotated instruments

1. Council Regulation (EC) No. 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No. 1260/1999
2. Regulation (EC) No. 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No. 1784/1999
3. Regulation (EC) No. 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No. 1783/1999
4. Council Regulation (EC) No. 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
5. Council Decision 2006/702/EC of 6 October 2006 on Community strategic guidelines on cohesion

15. Environment, Consumers and Health Protection

Consumers with disabilities may have special needs with regard to certain goods and services. For these reasons, some EC legal instruments oblige suppliers of certain goods and services (e.g. (electronic) telecommunication services) to take account of those needs.

Annotated instruments

1. Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (Text with EEA relevance) - Commission Statement
2. 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)
3. Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No. 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive') (Text with European Economic Area relevance)



16. Science, Information, Education and Culture

With regard to *information*, the EU institutions have taken measures to meet the specific needs of people with disabilities with regard to accessing of information made available by the institutions.

Secondly, the recent *Youth Action Programme* pays particular attention to increasing the opportunities, in a broad sense, of young people with disabilities.

Annotated instruments

1. Council Regulation (EC, Euratom) No. 1700/2003 of 22 September 2003 amending Regulation (EEC, Euratom) No. 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community
2. Decision No. 1719/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing the Youth in Action programme for the period 2007 to 2013
3. Decision No. 1376/2002/EC of the European Parliament and of the Council on a series of guidelines for trans-European telecommunications networks
4. Decision No. 1336/97/EC of the European Parliament and of the Council on a series of guidelines for trans-European telecommunications networks
5. Council Decision 79/505/EEC:of 8 May 1979 on the conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials
6. Decision No. 1720/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning

17. Law relating to Undertakings

Whilst harmonising certain aspects of copyright law, EC law still allows for the right of reproduction and communication of public works to be limited by Member States for the benefit of users with disabilities.

Annotated instruments

1. Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

19. Area of Freedom, Security and Justice

Directives and other legislation concerning EU policies with regard to *refugees* and other *third country nationals* contain several provisions that take into account the special needs and vulnerability of people with disabilities.

Annotated instruments

1. Regulation (EC) No. 863/2007 of the European Parliament and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border



- Intervention Teams and amending Council Regulation (EC) No. 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers
2. Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)
 3. Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted
 4. Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities
 5. Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers
 6. Decision No. 573/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme Solidarity and Management of Migration Flows and repealing Council Decision 2004/904/EC
 7. Council Decision 2007/435/EC of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows



Part II: Legislative implications of the UNCRPD

The first part of this report provided a descriptive overview of legislative and the major policy instruments regarding disability that exist within in the European Community (hereinafter: EC) and the legal basis upon which these instruments rest. This second and final part offers an analysis of the fields where the EC has or has not (yet) exercised legal competencies with regard to disability. This analysis will take place on the basis of the UN Convention on the Rights of People with Disabilities (hereinafter: UN CRPD or the Convention). The lay-out of this report is based on the content of this Convention. However, the authors have selected the most relevant topics to be dealt with.

01. Introduction

The fact that in the future under the UN CRPD there will be a dual accountability under international law of both the individual Member States and of the EC as a ratifying party as regards the safeguarding of the rights of people with disabilities, may give rise to political debates about the scope of EC competencies in relation to national responsibilities of Member States under the same Convention. An evaluation of this delicate relationship falls outside the scope of this report. Identification in this report of future obligations under the UN CRPD that are as yet (on the EC level) unfulfilled therefore neither may be interpreted as a plea for an extension of EU competencies, nor as a plea against such an extension.

The present authors acknowledge that, since the UN CRPD is a completely new legal instrument, there is considerable room for discussion about what is exactly the nature and scope of its core provisions and what instruments could be or should be used to implement this Convention in a correct way. Also, it is not at all clear what exactly are or will be the obligations of Parties to this Convention. Ultimately, our interpretation of obligations under the Convention in this report is based on the general obligation of States Parties under international agreements and covenants that they fulfil all of their duties *in good faith* and *with due diligence*. Of course, these principles of international law also apply to the EC (and all of its official agents and institutions) as a future Party to the UN CRPD.

This Part II of our work should be read in close connection to Part I. For reasons of brevity and transparency, we have chosen not to repeat all the findings in the first part. Also, we presume that readers will have access to the full text of the UN CRPD, which makes it unnecessary to cite the text of its Articles in full extent in this report.

A further limitation is that we could not deal with all of the topics covered by the UN CRPD. This Convention covers virtually all areas of social, economic, cultural and private life. In as far as we could see – at very first sight – that there is no possible legal basis for the EC to act in a particular area, we have (also for reasons of length) chosen to prioritize a discussion of those areas that indeed might offer possibilities for the EC to implement the standards set by this Convention. By way of example, we



here mention the area of health, which we have thus chosen not to analyze in this report.

02. Purpose and Definitions

The UN CRPD speaks of ‘to promote, protect and ensure’ the full and equal enjoyment of human rights of people with disabilities. From an analysis of the Preamble and Article 1 of the UN CRPD it appears that this Convention follows a two-track approach to the enhancement of the rights of disabled people. On the one hand there is the proclamation of the (equal) rights of people with disabilities which have to be promoted, protected and ensured, on the other hand it requires a manifold of legislative and policy efforts from States Parties to enhance and facilitate the full enjoyment of these rights. Such a double sided approach is also reflected in existing EC legislative instruments. At some points we find a formulation of rights (e.g. the right to equal treatment in the Employment Equality Directive; 2000/78/EC), in other documents we find many measures that will enable disabled people to enjoy these (equal) rights (e.g. 2001/903/EC: Council Decision of 3 December 2001 on the European Year of People with Disabilities 2003, or 2005/600/EC: Council Decision of 12 July 2005 on Guidelines for the employment policies of the Member States). Article 2 of the UN CRPD does not give a definition of *disability* as such. However, Article 1 – which describes the purpose of this Convention – does give a definition of persons *with disabilities* which seems to have a similar function: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” In the case *Chacón Navas v. Eurest Colectividades SA*¹, the European Court of Justice (ECJ) has elaborated a different definition of disability in the framework of interpreting the Employment Equality Directive². This definition is criticised by some authors because of its (assumed) narrow medical (instead of social) approach.³ The definition of people with disabilities in Article 1 of the UN CRPD reflects the social approach, recognizing that disability is the result of an interaction between impairments of a person with (external) barriers. However, it is not sure to what extent this approach will inspire the ECJ to reconsider its ruling in *Chacón Navas*. The Court’s definition is after all designed for the Employment Equality Directive. This could also account for the fact that the definition in *Chacón Navas* is directed at the enhancement of “participation in professional life” instead of “full and effective participation in society”.⁴ Having applied policies outside the field of employment⁵, the EC has shown that there is a broader scope to the issue of disability than “participation in professional life” already. However, with regard to the field of employment it is clear

¹ Case C-13/05, judgment of the Grand Chamber of 11 July 2006, Jur. pp. I-6467.

² Directive 2000/78/EC, establishing a General framework for equal treatment in employment and occupation.

³ L. Waddington, ‘Case C-13/05, *Chacón Navas v. Eurest Colectividades SA*’ (2007) 44 Common Market Law Review pp. 487-499.

⁴ Case C-13/05, para 43.

⁵ E.g. Directive 2005/29/EC of the EP and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market; Regulation (EC) No 1371/2007 of the EP and of the Council of 23 October 2007 on rail passengers’ rights and obligations (which among other things contains an obligation to facilitate independent travelling.); Decision No 1982/2006/EC of the EP and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities 2007-2013 (which supports the development of design-for-all ICT devices - social inclusion is mentioned as the rationale of this).



that that UN CRPD definition includes a long-term impairment, which does not literally exclude (chronic) illness. With regard to the problem of discrimination on the ground of *assumed* disability, the definition of the UN CRPD does not seem to be of added value in comparison with the EC employment legislation.

Article 2 does define a number of key-concepts that are used in the Convention. Since there is no comparable extensive and conclusive list of definitions in the context of EC law, it is on the basis of the current research impossible to evaluate in how far the terms communication, language and universal design are or are not used in a similar way in the latter context. The concepts of discrimination and reasonable accommodation in employment, indeed have also been defined in EC equal treatment law. We will discuss these definitions in par. 4 of this report.

03. General Principles and Obligations

With regard to its general principles, it can first be noticed that the Convention follows a broad and twofold approach to the enhancement of the rights of disabled people, a topic which has been discussed already above. In the second place, the Convention's central idea(s) or values are dignity, autonomy, independence, full participation and inclusion, non-discrimination, equality of opportunity, universal design and accessibility. In it, one can observe a shift from a past concept based on assistance and aid to a modern approach based on maximum participation and autonomy of people with disabilities. It should be noted here that the Charter of Fundamental Rights of the European Union, proclaimed by the Commission, Parliament and Council on 12 December 2007, also reflects the values of participation and independency.⁶ The emphasis on participation, equal opportunities and autonomy, including such progressive concepts as universal design, in the UN CRPD might go beyond existing EU legislation and policies in the areas that fall under its competency. This, however can be examined as best under the more specific headings of the UN CRPD that will be discussed below.

As far as the obligations under the Conventions are concerned, it must be noticed that in Article 1, the UN CRPD, in quite general terms, speaks of 'to promote, protect and ensure'. These terms have to be interpreted in accordance with their meaning and effect in the framework of international human rights law in general.⁷ As regards the subsequent provisions of the Convention, one can notice that these three general obligations of State Parties are phrased more specifically in terms of 'to ensure and promote', 'to adopt all appropriate measures', 'to take into account', 'to refrain from', 'to take all necessary measures', 'shall prohibit', 'shall recognize', 'to combat', 'to raise awareness', 'to promote awareness', 'to promote recognition', et cetera. For each and every one of the topics or areas that are covered under the Convention, it must be elaborated and ascertained in the future what it is exactly that States Parties are required to do.

⁶ The Charter is not officially in force, in the sense that it can be relied upon in Courts.

⁷ It is outside the scope of this report to discuss this topic in any detail here. An important and authoritative source in this respect is General Comment nr 3 of the CESCR; to be found at:
[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument)



An issue that should be considered for each provision is the question whether it concerns an obligation of result or an obligation of conduct. In this respect, one must keep in mind that under international human rights laws, States Parties do have some room for a gradual implementation of the standards set by a specific Convention. In that respect, the general economic and social situation of the State Party plays an important role in the assessment whether or not these obligations are met. In addition, we need to mention the principle of dynamic interpretation, which means that Treaty (supervising) bodies are inclined to evolve the way in which they conceive of a State Party's duties under a particular Convention. Also, these bodies allow for a considerable margin of appreciation as to how (which what means) States Parties fulfil their obligations. All this, however, is governed by the principles of good faith and due diligence. For these reasons, it is impossible to make, at this early stage where (apart from the *Travaux Préparatoires*) we have no authoritative sources about the interpretation of the Convention's general obligations or the obligations on the basis of specific provisions, a full assessment whether or in how far the EC does already meet these obligations. However, in the following paragraphs of this report we will give some indications as to the question to what extent the EC seems to be in compliance with these obligations or not.

04. Equality and non-discrimination

In Article 2 the Convention defines the concept of discrimination on the basis of disability. This definition follows the well known definitions in the CERD and CEDAW Conventions, but adds one particular phrase: "It (i.e. discrimination GT/RH) includes all forms of discrimination, including denial of reasonable accommodation." As far as the definition itself is concerned, one can observe that there are substantial differences between this definition and the one given in the Employment Equality Directive (Article 2). Being a human rights instrument, the UN CRPD links the prohibition of making a 'distinction, exclusion or restriction on the basis of disability' to 'impairing or nullifying the recognition, enjoyment or exercise' of (in short) the human rights of disabled persons. In contrast, in the Directive the EC defines direct discrimination in a more neutral or formal way as 'where a person (...) is treated less favourably (...)', thereby not specifying that the unequal treatment needs to constitute some infringement of the human rights of the disabled person. This EC approach, in effect, can lead to a greater protection of disabled persons, since they do not have to state (nor to prove) that the unequal treatment that they have encountered leads to a breach of human rights. On the other hand, it may be the result of the explicit comparative nature of the EC definition that disabled people who can not in their particular case find a suitable comparator, will fail to ensure their equal rights under EC law. Since this comparative element is lacking in the Convention's definition, the latter seems to offer a wider protection against discrimination. Another possible relevant difference is that the Convention speaks of discrimination in general, without explicitly specifying that this includes indirect discrimination or such forms of discrimination as harassment⁸ or an instruction to

⁸ Harassment is not explicitly mentioned as a form of discrimination. However, article 27 par. 1 (b) does mention harassment as one of the kinds of treatment that disabled persons should be protected from.



discriminate. All this, however, may be included in the above quoted phrase that the concept of discrimination includes *all* forms of discrimination.⁹ The Convention expressly includes in the definition of discrimination the concept of a reasonable accommodation. This concept is defined in Article 2. There are some significant differences between this definition and the one in Article 5 of the Employment Equality Directive. One of these is that the Directive refers to accommodations that can enable a disabled person to have access to, participate in or advance in employment or to undergo training, while the UN CRPD links this obligation to the full enjoyment of all human rights and fundamental freedoms. This, however, follows directly from the limited material scope of the Directive (further discussed below). An in depth study into the exact differences between the concepts of discrimination in the Convention as compared to the EC Directive, is necessary in order to conclude whether any specific adaptations of EC law at this point may be necessary.¹⁰

Article 5 par. 1 of the UN CRPD imposes such obligations as to recognize the principles of equality before and under the law and the equal protection and benefits of the laws. Since these are very basis and general legal principles of any democratic constitutional state that is governed by the rule of law, it must be assumed that these principles are and will be upheld by the EC (and all of its official agents and its institutions) as well. In fact, however, in the EU and EC Treaties, these rights are formulated in an express way.¹¹ Nonetheless, we feel assured that these principles will under all circumstances be upheld in the Community's legal order. We have no doubt as to the ECJ's approach in this regard, where the Court has indeed accepted on numerous occasions that Community laws shall be interpreted in the light of the fundamental principle of equality or equal treatment.¹²

The fundamental of equal recognition before the law is elaborated in Article 12 of the Convention, where it is stated that States Parties shall recognize that disabled persons have full legal capacity on an equal basis with others in all aspects of life.¹³ As regards this provision, it must be noticed that the EC has as yet no legal powers to regulate that Member States shall change their private laws, criminal procedures laws, administrative laws or any other laws in order to give full legal capacity to disabled people or to oblige Member States to assist these people to use these capacities. This means that this provision of the Convention only can have effect as far as the laws and regulations of the Community itself are concerned. In that respect,

⁹ It may be expected that the interpretation of the definition in the UN CRPD will follow the lines of interpretation of the (similar) definitions in the CERD and CEDAW Conventions. Under these Conventions it is fully accepted that the prohibition of discrimination includes indirect discrimination and such things like harassment or other kind of violent treatment (e.g. violence against women, racial violence).

¹⁰ A comparison of the EC definitions in the area of sex discrimination to the one given in the CEDAW Convention has been made in: R. Holtmaat & C. Tobler: CEDAW and the European Union's Policy in the Field of Combating Gender Discrimination. In: Maastricht Journal of European and Comparative Law. 2005, Vol. 12, Number 4, pp. 399-425.

¹¹ The Charter art 20 recognise the right of everyone of equality before the law, but not under the law.

¹² See e.g. Mangold C-144/04.

¹³ Parts of Article 12 concern equal access to legal to law and assistance in exercising their legal capacity.



we have found no EC rules that may contravene this right of disabled people under the Convention.¹⁴

Article 5 par. 2 obliges State Parties to prohibit all discrimination and offer effective legal protection against discrimination. Contrary to the Employment Equality Directive, the scope of this provision of the UN CRPD is not limited to a certain areas of social and economic life. However, the Commission is already working on a non-discrimination Directive with a broader scope, covering also the area of goods and services, the areas of social protection, education and housing.¹⁵ Nevertheless, even when this proposal is adopted, we are still faced with the fact that from the side of the EC, there is not a similar general prohibition of discrimination (nor an obligation for Member States on the basis of EC law to implement such a prohibition in their national laws). Since Article 13 of the EC Treaty confines the legal competency of the Community to act in this particular non-discrimination field 'within the limits of its powers' we can not expect that such an unconditional (as to its scope) prohibition of discrimination will be issued by the Community. Citizens of EU Member States, on the other hand, under circumstances determined by their legal system, sometimes may take resort to other international legal instruments that prohibit discrimination on the ground of disablement in areas that are not (yet) covered under EC law (or national law that implements EC law), such as article 26 ICCPR and article 14 ECHR.

As regards Article 5 par. 3 (concerning reasonable accommodations) we have already discussed some relevant differences in the approaches of the UN CRPD and the EC Directive in par. 2 of the current report. This provision puts an express duty on the EC not only to legislate that withholding a reasonable accommodation is a form of discrimination, but also vestiges an obligation to take all appropriate steps that such accommodations are indeed provided. As said (par. 3 of this report) it is quite hard to determine at this stage whether a State Party (such as the EC may become) fulfils a certain obligation or not. Anyway, the Commission has made an exemption on the prohibition on state aid concerning the compensation of measures of reasonable accommodation.¹⁶ Under article 4 of the abovementioned Commission proposal regarding a Directive on goods and services, the obligation of reasonable accommodation is proposed to be expanded to other areas.

Article 5 par. 4 of the UN CRPD is similar to Article 7 par. 1 of the Employment Equality Directive.

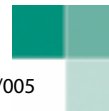
05. Combating multiple discrimination

Articles 6 and 7 of the UN CRPD draw particular attention to the possible vulnerable position of women and children with disabilities. The EC has already adopted some

¹⁴ This report does not reflect on how Article 12 may impact on Third Pillar matters (cooperation in criminal matters; the European arrest warrant).

¹⁵ See Commission proposal <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0426:EN:NOT>, in particular art 3.

¹⁶ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid incompatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation), art



provisions which recognize the complex phenomenon of multiple discrimination with regard to disability in particular.¹⁷ The European Youth in Action Plan¹⁸ also recognises this phenomenon and pays specific attention to accessibility and participation of young persons with disabilities. However, within the field of non-discrimination law, the issue of multiple discrimination is relatively new and underdeveloped. An appropriate approach to (any kind of) multiple discrimination is still under construction. In any way, this is an issue to be elaborated in EC non-discrimination legislation in the coming decade. Probably, the directions given by the UN CRPD in this respect, will give some extra stimulus to EC Institutions (including the ECJ) to positively take into account the extra vulnerable position of those suffering from discrimination on the ground of disability, combined with one or more other grounds.

06. Awareness-raising

Article 8 of the UN CRPD prescribes that an array of measures shall be taken to raise awareness in the general public regarding the (often disadvantaged) position of persons with disabilities and to combat negative stereotypes about people with disabilities. Awareness raising may be an important side effect of the various legal and policy instruments that are issued by and are applied within the EC in the area of the rights of disabled people. Besides this, the Union has also taken specific action in this field. The European Year of People with Disabilities in 2003¹⁹ and initiatives during the European Year of Equal Opportunities 2007²⁰ may serve as examples.

However, it must be stated that most of the current legal instruments are mainly aimed at the area of employment and transport. According to the UN CRPD, more measures regarding other areas should be taken in the future. However, in some occasions, for example the awareness-raising “at the family-level”²¹ and in schools with regard to children from an *early age*²², it might be questionable to what extent the EC has competencies in such areas.

In this regard, we may also expect a positive contribution by the Fundamental Rights Agency. One of the important tasks of the Agency is to monitor developments and to issue reports in the area of combating discrimination, inter alia on the ground of disability. In addition, we want to stress that – as far as awareness raising in the Community’s own organs and institutions is concerned – we may expect a positive effect from the fact that the Commission, in the Disability Action Plan, has committed itself to ‘disability mainstreaming’. This means that it promised to consider the disability angle of all policy areas of EC legislation and policies. Implementation of this mainstreaming concept would mean that the EC does not necessarily need to adopt separate measures in this field, but may integrate this concept to any piece of legislation or policy that falls under its competence.

¹⁷ E.g. Council Directive 96/97/EC, art 3, Directive 2006/54/EC, art 6.

¹⁸ Decision of the EP and of the Council 1719/2006/EC, establishing the Youth in Action Programme 2006, in particular article 3.

¹⁹ Council Decision 2001/903/EC, in particular art 2(a).

²⁰ <http://www.stop-discrimination.info/31.0.html>

²¹ UN CRPD article 8(1), section (a).

²² UN CRPD article 8(2), section (b).



07. Accessibility

The obligation to provide for accessibility is a very important aspect of the non-discrimination norm of the Convention, and it is a general obligation as well.²³ (See specifically Article 9, but also e.g. Article 14 par. 2.) Major measures have been taken within the EU with regard to accessibility in the fields of employment²⁴ and transport²⁵, and some serious steps in the field of information and electronic services²⁶ are taken as well. However, the areas in which accessibility can be promoted are almost unlimited. Here, the EC may run against its limited competencies and may need to leave it to Member States to take action in those fields for which there is no legal basis for action, i.e. in the area of education (see also par. 11 of this report.) Furthermore, the obligation on accessibility can be extended by the obligation to provide a level of accessibility that allows people to use the facilities independently.²⁷ Article 9 of the UN CRPD lays down an obligation on accessibility in a broad and general sense. This may impose an obligation on the EC to enact additional legislation with regard to several areas. Article 9 focuses in particular to buildings, roads, transportation, schools, housing, medical facilities and workplaces, as well as to information and communication services. Especially in the areas of schools, housing and medical facilities there seems to be little EC legislation yet. However, the EC has created some financial incitements to promote accessibility. The European Structural Funds for example only render funds to schools that meet requirements of accessibility.²⁸ In addition, article 30 of the UN CRPD obliges State Parties to ensure participation in cultural life, recreation and leisure and sport of people with disabilities. This is made concrete by the obligation to ensure access to places such as theatres, museums, cinemas, libraries and tourism services, and as far as possible to monuments and sites of national cultural importance. Concrete legislation to ensure accessibility in most of these areas is lacking in the EU at the moment. However, in as far as it can be established that goods and services are offered in the areas mentioned in this Article, there is a Commission proposal – based

²³ Article 2, in the definition of discrimination, does not only speak of making a distinction on the basis of disablement, but also covers any 'exclusion' on this basis. Not providing a reasonable accommodation / provide for full accessibility measures will in effect lead to exclusionary practices, prohibited under the Convention's definition of discrimination. This is an example of how this particular phrasing of the concept of discrimination – as compared to the definition in EC law – may have some advantages.

²⁴ E.g. the Employment Equality Directive, and several Regulations which are laying down technical requirements for work places such as: Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC); Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC); Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

²⁵ E.g. the important Regulations 1107/2006 on establishing rights of disabled persons and persons with reduced mobility when travelling by air and 1371/2007 on rail passengers' rights

²⁶ Decision No 1376/2002/EC of the EP and of the Council on a series of guidelines for trans-European telecommunications networks; Decision No 1336/97/EC of the EP and of the Council on a series of guidelines for trans-European telecommunications networks; Directive 1999/5/EC of the EP and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity.

²⁷ This extension is nicely reflected in abovementioned Regulations on passengers traveling by air and by train. The Regulation with regard to rail passengers' rights provides for a right to independent traveling for people with disabilities, whereas the Regulation with regard to air traveling does not.

²⁸ Art 16 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999. It must be noted here also that (e.g. in case of schools) accessibility can be enforced in individual cases by appealing to the right of reasonable accommodation.



on Article 13 EC – to extend the scope of the right to equal treatment of people with disabilities to cover goods and services.²⁹

Article 20 UN CRPD (regarding personal mobility) lays down an additional obligation to the area of public transport: it seems to add availability and affordability requirements to the obligation of accessibility. With regard to accessibility, the EC has taken some important measures in this field.³⁰ No legislation regarding affordability and availability of public transport is known by the authors.

With regard to accessibility of information (art 21 UN CRPD), the EU has ensured accessibility of their own documents by a Regulation regarding public access to EP, Council and Commission documents.³¹ With regard to art 21 section (c), the EC also has adopted an instrument on the accessibility of communication networks.³² This policy however may have to be reinforced.

08. Situations of risk and humanitarian emergencies

The EU seems to have addressed the obligations arising from article 11 of the CRPD by several Decisions and Directives with regard to refugees and ‘third-country nationals’.³³ The particular vulnerability in of people with disabilities in such cases is explicitly recognised in these instruments.

09. Living independently and being included in the community.

Article 19 of the UN CRPD focuses in particular on the purpose of independent living of people with disabilities. Subsection (a) lays down obligations to State parties to provide a free choice with regard to the place and form of cohabitation. Although this obligation seems to be formulated unconditional, it is not sure how far such an obligation reaches in concrete cases.³⁴ Another right that is granted (subsection b) is the right to personal assistance to support living and inclusion in community. This seems also a potential far-reaching right. Anyway this is an area in which no legal instruments are applied by the EC yet. In as far as the right to equal treatment in respect to housing is concerned it is noteworthy that the recent Commission’s Art. 13 EC proposal does cover housing and services.

²⁹ See Commission proposal <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0426:EN:NOT>

³⁰ Important are Regulation (EC) No 1371/2007 of the EP and of the Council of 23 October 2007 on rail passengers’ rights and obligations (entry into force: December 2009); Regulation (EC) No 1107/2006 of the EP and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air. These Regulations ensure accessibility of these important categories of (public) transport. Other legislation lays down accessibility requirements by means of technical requirements (see section 07. of the first part of this report).

³¹ Regulation (EC) No 1049/2001 of the EP and of the Council of 30 May 2001 regarding public access to EP, Council and Commission documents, art 10(3); Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community, art 8 can be mentioned as well here.

³² Decision No 1336/97/EC of the EP and of the Council on a series of guidelines for trans-European telecommunications networks, in particular section 1 of Annex 1.

³³ E.g. art 20(3) of Council Directive 2004/83/EC and art. 3(9) of Decision 573/2007/EC (Establishing the European Refugee Fund).

³⁴ See our comments on the obligations under the Convention in par. 2 of this report.



10. Respect for home and the family

Article 23 of the UN CRPD demands measures with regard to matters relating to marriage, family, parenthood and relationships. As yet, no legal instruments are applied by the EC in this field. We do not expect that the EC will do so in the near future, since there is a lack of Community competencies in this particular area.

11. Education and health

The field of education³⁵ is highly important for issues of disability in many aspects. Article 24 of the UN CRPD obliges State Parties to ensure an inclusive education system. This principle with regard to education is elaborated in many obligations with regard to reasonable accommodation. As far as vocational education or training is concerned a similar obligation exists under the Framework Directive. A new aspect in this respect is the obligation to take “appropriate measures to employ teachers who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education”.³⁶ No such concrete obligation exist in EC legislation at the moment.

The nature of the EC competence on education is such that we cannot expect that strong measures in this area will be adopted; in as far as the Commission or any other Community institution will draft proposals in this area, they need always be of a merely advisory/coordinating nature. However, there are some areas where the EC (by way of policy measures or budgeting) has already attempted to make education more inclusive, such as lifelong learning.³⁷

Article 25 of the UN CRPD about the field of health obliges equal access to health care. Health care is generally spoken a field in which the EC does not have much competencies. The important right to access to health care for people with disabilities on equal basis with others is ensured already in the Member States by Art. 26 of the International Covenant on Civil and Political Rights.

12. Work and Employment

Without doubt, the EC legislation is most developed in the area of work and employment, where a specific Employment Equality Directive has been adopted, covering – inter alia – a prohibition of discrimination on the ground of disability (see also par. 4 of the current report). As a result, Article 27 UN CRPD does not seem to grant many additional rights in this area. Nevertheless, we have noticed some discrepancies between the rights assured under the Convention and those assured under the Directive. The Employment Directive allows Member States to make an exception to the principle of equal treatment as regards the armed forces. Such an exception is not envisaged in the Convention.

³⁵ Please note that vocational education or training is covered under the Employment Equality Directive; this concerns also issues of accessibility and the right to education on an equal footing with children without a disablement.

³⁶ Article 24(4) UN CRPD.

³⁷ Decision No 1720/2006/EC of the EP and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning, in particular arts 1(3)(f), 12 and recital 36.



Also, we have seen (par. 2 of this report) that the EC Employment Directive – according to the interpretation of the ECJ – does not cover people with chronic illnesses, whereas the UN CRPD definition of disability apparently does include them. Therefore, the personal scope of the EC legislation in the area of work and employment is more narrowly defined and therefore the level of protection, required by the Convention, may not be wholly met by the EC legislation.

13. Adequate standard of living and social protection

An “adequate standard of living” for people with disabilities and their families is to be ensured as a result of Article 28 of the UN CRPD. There is no general secondary law (Regulation or Directive) nor any provision in the EC and EU Treaties that gives people with disabilities such a general social (human) right. There also is no applicable EC legislation with regard to the actual height of such benefits (under national social security or social benefits laws), therefore there is no guarantee that they meet the standard that they provide an adequate standard of living. Such provisions would exceed the competencies of the EC by far. The area of social protection is (as yet) not covered by the equal treatment legislation of the EC. This means that in as far as Member States provide for social benefits for disabled people, there is no obligation under EC law to do this on a basis of equality with non-disabled people. *Equal access to social benefits* is to a certain extent ensured under general human rights non-discrimination provisions (such as Article 14 ECHR and Article 26 ICCPR); i.e. they offer a legal remedy in only in as far as these provisions can (effectively) directly be relied upon by EU citizens.³⁸

14. Statistics

The EC has developed several instruments in order to collect data and provide statistics about the disability issues. Some important ones of these are mentioned in part I of this report. Article 31 of the UN CRPD addresses the issue of collecting information, prescribing safeguard with regard to the privacy of people with disabilities. Although it might be possible for EC to take further steps in field of statistics, article 31 of the UN CRPD does not seem to be of added value in this respect.

15. Conclusion

Finally, it should (again) be pointed out that, notwithstanding the question whether specific EC legislation or policies in respect of the various rights of disabled persons (as guaranteed under the UN CRPD) are in place, any State Party has a direct responsibility to fulfil all of its obligations under this Convention. This means that every Member State of the EC that ratifies this Convention will have to take its own responsibility in this regard. As soon as the EC also becomes a Party to this Convention, one could argue that – despite the precise limits of the Community’s competencies under the EC Treaty – there rests upon the Community and all of its

³⁸ This depends upon the national legal system (monistic or dualistic) and upon the question whether the requirements, set by these Conventions, are met.



official agents and institutions a special obligation to enhance the full enjoyment of all human rights of people with disabilities within the limits of the Community competence. This means that, in the view of the authors of the present report, the EC will have to employ all possible means to fulfil its general obligation to implement this Convention in good faith and with due diligence. It may be expected from all Community's official agents and institutions (including the ECJ) to explore in depth what needs to be done and to encourage and facilitate its Member States to fulfil their own obligations under the Convention.



Conclusions and recommendations

More than one hundred legal instruments were annotated in this initial review. The largest numbers of instruments which included a reference to disability were found in the fields of:

Freedom of Movement for Workers and Social Policy (18 instruments) (including the Employment Equality Directive which prohibits discrimination on the grounds of disability with regard to employment and vocational training);
Industrial Policy and Internal Market (17 instruments) (including, for example, instruments relating to e-accessibility and accessibility of lifts);
Transport Policy (18 instruments) (including instruments relating to accessibility and travel by buses, trains, ferries and planes).

In contrast, in some fields, very few legal instruments were identified. These fields included: Environment, Consumers and Health Protection (3 instruments) and Science, Information, Education and Culture (6 instruments). For the future it will be important to reflect on the extent to which soft law and policy instruments which refer to disability exist in these, and other fields, and this point is returned to below.

It is worth noting that the review also identifies the legal base of the instruments identified. To date, only one EC Treaty article specifically refers to disability (Art. 13 EC, which gives the Community the power to take action to combat discrimination on the ground of disability, as well as a variety of other grounds). However, Article 13 EC provided the legal basis for only three of the instruments included in the review. All of the other legal instruments were based on EC Treaty articles that made no reference to disability whatsoever. This reveals that some articles in the EC Treaty, e.g. articles relating to transport, are commonly being used to provide the basis for legislation addressing disability. It also reveals that in some areas, e.g. consumer legislation, there is hardly any legislation which makes a specific reference of disability, and little use is being made of the relevant Treaty articles to support legislation which specifically refers to disability.

The relatively high number of instruments which make reference to disability which relate to transport, reveal that this field is a particularly good example of disability mainstreaming. Further research could help to reveal why the Community legislator, and the relevant Directorate General within the Commission, has been so receptive to mainstreaming disability within legislation in this field, and whether any lessons can be learnt that might help to facilitate disability mainstreaming in other fields.

It is also worth noting that even when EC legislation does not make a specific reference to disability, it can still be of particular value to (some) disabled people. For example, in relation to Freedom of Movement for Workers and Social Policy, gender-related legislation may be worth considering in the review, even if it does not include disability-specific protection. This is because it may be possible for disabled women (or men) to claim specific rights under the gender equality directives.



The scope for developing EC legislation which specifically addresses disability is now taking on a new importance in light of the expected conclusion by the EC of the United Nations Convention on the Rights of Disabled People. The Convention will be the first international human rights treaty which the EC will conclude, and, as a consequence, the EC will, to the extent of its competencies, be legally bound to comply with the obligations set out in the Convention.³⁹

One future legal instrument that could help the EC to comply with its legal obligations under the Convention (with regard to disability discrimination) is the directive that should result from the Commission's proposal for a directive implementing the principle of equal treatment between persons outside the field of employment.⁴⁰ However, for the time being, the scope of such a Directive is under debate, and its adoption is still regarded as controversial by some Member States. Attention should also be paid to ensuring that the Community's own institutions are in compliance with the Convention - for example that the EC infrastructure such as web-sites, educational establishments, buildings etc. are disability accessible. In some areas effective implementation will require a more creative approach to the competence of the EU. For example Community competence to take legally binding action is limited in relation to social and health services, but non-legislative measures such as guidance on quality of services would be productive and contribute to meeting the goals of the Convention.

Lastly, as noted above, the review revealed that there are many fields where there is limited or no EC legislation which makes a reference to disability. Nevertheless some of these fields, such as education, consumer protection and information, and others, are of importance to people with disabilities. In many cases the EC has adopted non-legally binding instruments in these fields, which do refer to disability. For this reason it is necessary to extend this initial ANED review of legislation to cover soft law and guidance which refers to disability in key areas. For example, in the area of General, Financial and Institutional Matters, the European Parliament has included references to disability in the EU Budget.

With regard to the Public Procurement Directives, the Commission has issued mandates to the European Standardisation bodies to develop EC wide standards on accessibility of ICT products and services. With regard to External Relations, disability is mentioned in a number of political agreements that the EU has concluded with third countries (e.g. the EU-Africa Partnership). The ANED review could usefully be extended to consider the mainstreaming of disability in development and external relations. In the area of Education, the European Community has also adopted important soft law and policy instruments.

³⁹ See COM (2008) 530 final, Proposal for a Council Decision concerning the conclusion, by the European Community, of the Optional Protocol to the United Nations Convention in the Rights of the Persons with Disabilities for an indication of the extent of the area of competence of the Community with regard to the fields covered by the Convention, available via: http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=197349

⁴⁰ COM (2008) 426, Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation, COM(2008) 426, available via: <http://ec.europa.eu/social/main.jsp?catId=649&langId=en>



For these reasons the ANED review of EC instruments will be extended to cover important soft law and policy instruments in selected fields in 2009.



Annex: annotation of legal instruments

This Annex provides details of all EC legislative instruments which make a specific reference to disability. Each instrument is identified individually (including a hyperlink to the original document in Eur-Lex). The content of the disability specific provision(s) within the instrument is noted, accompanied by a brief commentary on the aim and consequences of the relevant provision(s), where the description of content is not self-evident.

The following instruments addressing disability issues are not included in this overview:

Staff regulations and terms of employment of civil servants of the EU and for personnel of the many institutions of the European Union, which are of an internal nature and do not grant rights to citizens of the EU (e.g. Council Regulation (EEC, Euratom, ECSC) No. 2074/83 of 21 July 1983 amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities, Art. 4, or Council Regulation (EC, Euratom) No. 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities).

Only the main legislative instruments concerning the collection of statistical data regarding issues of disability are covered. However, the authors recognise that the collection of data is of great importance for developing policies with regard to disability.

Ref. No.	Name of instrument	Legal basis	General aim of instrument	Provision(s) specifically addressing disability	Brief description of provision(s) addressing disability	Brief Commentary on provision(s) addressing disability
01. General, financial and institutional matters						
01.01	Regulation (EC) No 1049/2001 of the EP and of the Council of 30 May 2001 regarding public access to EP, Council and Commission documents	Art 255 and Art 251 (ex 189b) EC Treaty.	Establishing general rules concerning public access to documents of the institutions of the EC.	Art 10(3).	The provision states: "Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference."	
01.02	Decision No 771/2006/EC of the EP and of the Council of 17 May 2006 establishing the European Year of Equal Opportunities for All (2007) — towards a just society	Art 13(2) and Art 251 EC Treaty.	Establishing the European Year of Equal Opportunities for All (2007) — towards a just society.		The Decision establishes a committee and formulates aims of the Year of Equal opportunities.	Disability is covered in the action plan, as do the other grounds of discrimination referred to in Art. 13 EC. No further particular focus on disability.
01.03	Commission Decision(s) Nos 96/564/EC-96/566 (Euratom, EC) of 11 September 1996 and Nos 90/176-90/180 (Euratom, EEC) EEC of 23 March 1990 authorizing several particular Member States not to take into account certain categories of transactions and to use certain approximate estimates for the calculation of the VAT own resources base	Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax.	Authorising several specific Member States not to take into account certain categories of transactions and to use certain approximate estimates for the calculation of the VAT own resources base.	Art 1(2).	The provision states: "Transactions carried out by blind persons or workshops for the blind" are exempt from VAT, provided these exemptions do not give rise to significant distortion of competition.	

01.04	Charter of fundamental rights of the European Union		Proclamation of the common fundamental rights of the European Union.	Art 21, Art 26.	The provision states: "The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community."	The Charter is not (yet) legally binding. Although the issue of integration of people with disabilities into society is explicitly addressed, Art 26 does not seem to grant enforceable rights.
01.05	Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights	Art 208 EC Treaty.	Establishing a European Union Agency for Fundamental Rights. The Agency is to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States with assistance and expertise relating to fundamental rights, in order to assist them, within their respective spheres of competence, to fully respect fundamental rights.	No specific article.		The Agency's aim is to assist Member States when implementing fundamental rights, among which is included the prohibition of discrimination on the ground of disability.
01.06	2008/203/EC: Council Decision of 28 February 2008 implementing Regulation (EC) No 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007-2012	Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, in particular Article 5(1).	Implementing Regulation (EC) No 168/2007 as regards the adoption of a multi-annual framework for the European Union Agency for Fundamental Rights for 2007-2012.	Art 2(b).	Disability is mentioned as a thematic area in which the Agency may undertake actions.	

02. Customs union and free movement of goods

02.01	Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of relief from customs duty	Art 28, Art 43 and Art 235 EEC Treaty.	Setting up a Community system of relief from customs duty.	Arts 70-78.	Allows for the duty free import of articles and services for the advancement of people with disabilities.	Consolidated text. (Regulation No 918/83 was amended by Regulation No 2289/83, No 1746/85, No 3691/87 and No 3357/91).
02.02	Commission Regulation (EEC) No 2289/83 of 29 July 1983 laying down provisions for the implementation of Articles 70 to 78 of Council Regulation (EEC) No 918/83	Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of relief from customs duty.	Laying down provisions for the implementation of Articles 70 to 78 of Council Regulation (EEC) No 918/83, with regard to the duty-free import of articles and services for the advancement of people with disabilities.	All	This Regulation lays down detailed provisions for the implementation of Articles 70 to 78 of Council Regulation (EEC) No 918/83 on relief from duties and duty-free import of materials and services for the benefit of people with disabilities.	Consolidated text. (Regulation No 2289/83 was amended by Regulation No 735/92). The Regulation aims to prevent the abuse of the relief system from customs duties set out in Arts. 70 - 78 of Council Regulation (EEC) No 918/83.
02.03	Council Decision of 8 May 1979 on the conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials (No 79/505/EEC)	Art 157e EEC Treaty.	Conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials, regarding the non-application of customs duties or relief on the importation of such articles.	Art 1 of the Decision in conjunction with, in particular, paras I and III of the Protocol, in conjunction with, in particular, Annex E of the protocol.	The Protocol contains provisions which allow for the prohibition of customs duties on several goods which are for the benefit of people with disabilities, e.g. educational materials adapted for use by blind people (the covered goods are listed in Annex E of the Protocol).	Note that the Community has made a reservation with regard to parts of the Protocol which contain prohibitions on <i>internal</i> charges on certain materials (Decision Art 1(2)).

03. Agriculture						
03.01	Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)	Art 36, Art 37 and Art 299(2) EC Treaty.	Laying down regulations regarding support for rural development by the European Agricultural Fund for Rural Development (EAFRD).	Art 8.	General non-discrimination provision (covering disability as a possible ground of discrimination) with regard to the implementation of the EAFRD and its accompanying programme.	The EAFRD was established to reinforce rural development within the Community. Measures (during all stages of the programme) under the EAFRD should never have a discriminating effect.
03.02	Commission Regulation (EEC) No 1391/78 of 23 June 1978 laying down amended rules for the application of the system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds	Council Regulation (EEC) No 1078/77 of 17 May 1977 introducing a system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds.	Laying down amended rules for the application of the system of premiums for the non-marketing of milk and milk products and for the conversion of dairy herds.	Art 12(2) b.	Exemption under which Member States are not obliged to recover premiums from recipients in case of an extended period of disability such as to prevent the recipient from carrying on his or her occupation.	A very specific provision benefiting a limited group of people with disabilities.
05. Freedom of movement for workers and social policy						
05.01	Regulation (EC) No 458/2007 of the EP and of the Council of 25 April 2007 on the European system of integrated social protection statistics (ESSPROS) (Text with EEA relevance).	Art 285(1) and Art 251 EC Treaty.	Establishing the European system of integrated social protection statistics (ESSPROS).	Art 2(b).	"Social protection" is designated as one of the fields of statistical study under this Regulation. Disability is mentioned as one of the issues within this field.	Collecting data about disability is regarded as an important condition for reinforcing disability policies.

05.02	Regulation (EC) No 1927/2006 of the EP and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund	Art 159(3) and Art 251 EC Treaty.	Establishing the European Globalisation Adjustment Fund (EGAF).	Art 7.	General non-discrimination provision (covering disability as a possible ground of discrimination) with regard to the implementation of the Fund and its accompanying programme.	Measures (during all stages of the programme) under the EGAF should never have a discriminating effect.
05.03	Regulation (EC) No 1177/2003 of the EP and of the Council of 16 June 2003 concerning Community statistics on income and living conditions (EU-SILC) (Text with EEA relevance)	Art 285(1) and Art 251 EC Treaty.	Establishing a common framework for the systematic production of Community statistics on income and living conditions (EU-SILC), encompassing comparable and cross-sectional and longitudinal data on income and on the level and composition of poverty and social exclusion at national and European levels.	-	No explicit mention of disability in the Regulation. However, "poverty" and "exclusion" are mentioned as fields in which statistics should be collected.	Collecting data about disability is regarded as an important condition for reinforcing disability policies. This particular instrument is regarded as the main EC provision relating to the collection of data on disabled people in Europe.

05.04	Council Regulation No 574/72 (EEC) of 21 March 1972 laying down the procedure for implementing regulation (EEC) 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community	Art 51, Art 235 EC Treaty, and Art 98 of Regulation (EEC) 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to their families moving within the Community.	Regulation regarding the implementation of Regulation 1401/71/EEC, on the application of (national) social security schemes to employed persons, to self-employed persons and to their families when moving within the Community.	All	Provisions for the application and conversion of national social security benefits for people moving between Member States of the European Community.	Consolidated document containing many amendments. Provides for the retention of social security benefits when moving within the EC. This is also of importance for social security benefits related to disability.
05.05	Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Art 118a EEC Treaty.	Laying down minimum health and safety requirements for the workplace.	Art 3, Art 4 in conjunction with Annexes I (20) en II (15).	The provisions state: "Workplaces must be organised to take account of handicapped workers, if necessary. This provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by handicapped persons."	The aforementioned provision is included in two annexes, covering both existing and new workplaces.
05.06	Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Art 118a EEC Treaty.	Implementation of minimum health and safety requirements at temporary or mobile construction sites.	Art 9, Art 10, in conjunction with Annex IV (17).	The provisions state: "Workplaces must be organised to take account of handicapped workers, if necessary. This provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories	The aforementioned provision is referred to in two articles, covering both employers and self-employed persons.

					and workstations used or occupied directly by handicapped persons."	
05.07	Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral- extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Art 118a EEC Treaty.	Establishing health and safety protection for workers in the mineral- extracting industries through drilling.	Art 10, in conjunction with Annex part A (20).	The provision states: "Workplaces must be organised to take account of handicapped workers, if necessary. This provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by handicapped persons."	
05.08	Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral- extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	Art 118a EEC Treaty	Establishing health and safety protection for workers in surface and underground mineral- extracting industries.	Art 10, in conjunction with Annex part A (18).	"Workplaces must be organised to take account of disabled workers, if necessary. This provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by disabled workers."	
05.09	Council Directive 96/97/EC of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes	Art 100 EC Treaty.	Implementing the principle of equal treatment for men and women in occupational social security schemes (amending Directive 86/378/EEC).	Art 3.	Workers with disabilities fall within the scope of this directive.	This provision might be of importance in combating multiple discrimination on the grounds of gender and disability.

05.10	Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation	Art 13 EC Treaty.	Laying down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with the aim of putting into effect in the Member States the principle of equal treatment.	Arts 1, 2(2)(b), 3(4), 5, 7, 18.	The Directive prohibits discrimination on the ground, inter alia, of disability with regard to employment, occupation and vocational training. This Directive also contains an obligation on employers to take "appropriate measures" in order to eliminate disadvantages for persons with disabilities (reasonable accommodation) and allows "positive actions" i.e. specific measures to prevent or compensate for disadvantages.	This Directive is of key importance with regard to the employment of people with disabilities.
05.11	Directive 2006/54/EC of the EP and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)	Art 141(3) and Art 251 EC Treaty.	On the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.	Arts 6, 7.	Scope is explicitly broadened to cover people with disabilities.	The provisions may facilitate the tackling of multiple discrimination on the grounds of gender and disability.
05.12	83/516/EEC: Council Decision of 17 October 1983 on the tasks of the European Social Fund	Art 126 EEC Treaty.	Specifying the aims and tasks of the European Social Fund.	Art 4(2) section c.	The promotion of employment of people with disabilities is an objective that can be financed from the Fund.	

05.13	2001/903/EC: Council Decision of 3 December 2001 on the European Year of People with Disabilities 2003	Art 13 EC Treaty.	Establishing the European Year of People with Disabilities 2003.	All	Provided for meetings and events, promotional campaigns, cooperation with broadcasting and media organisations and surveys and studies on a Community-wide scale in order to reinforce efforts regarding employment and integration and to raise awareness of issues related to disability.	
05.14	2005/600/EC: Council Decision of 12 July 2005 on Guidelines for the employment policies of the Member States	Art 128(2) EC Treaty.	Laying down guidelines for the employment policies of the Member States 2005-2008.	Annex, section 1.	The Decision states that Member States' employment policies should pay particular attention to promoting the employment of people with disabilities.	The Decision has value as a political statement, but does not establish any actual rights. Council Decision 2006/544/EC extends this Decision to cover 2006 as well.
05.15	Decision No 771/2006/EC of the EP and of the Council of 17 May 2006 establishing the European Year of Equal Opportunities for All (2007) — towards a just society (Text with EEA relevance)	Art 13(2) EC Treaty.	<i>Already addressed, q.v. 1.: General, financial and institutional matters.</i>			
05.16	2008/618/EC: Council Decision on guidelines for the employment policies of the Member States	Art 128(2) EC Treaty	Laying down guidelines for the employment policies of the Member States (Update 2008).	Annex, section 1.	The Decision states that Member States' employment policies should pay particular attention to promoting the employment of people with disabilities.	The Decision has value as a political statement, but does not establish any actual rights.

05.17	Communication from the Commission to the Council, the EP, the European Economic and Social Committee and the Committee of the Regions	Council Decision 2001/903/EC of 3 December 2001 on the European Year of People with Disabilities 2003.	Assessment of the European Year of People with Disabilities 2003.	-	-	The European Year of People with Disabilities 2003 is evaluated in this Communication and (in general) is considered a success.
05.18	Council Resolution of 15 July 2003 on promoting the employment and social integration of people with disabilities	-	Promoting full integration and participation of people with disabilities in all aspects of society, recognising that they have equal rights to other citizens.	All	The Resolution calls on the Commission and Member States to promote the full integration and participation of people with disabilities in all aspects of society, recognising that they have equal rights to other citizens.	The Resolution calls for <i>mainstreaming</i> , among other things, to be used as a policy instrument.
06. Right of establishment and freedom to provide services						
06.01	Directive 2008/6/EC of the EP and of the Council of 20 February 2008 amending Directive 97/67/EC with regard to the full accomplishment of the internal market of Community postal services	Art 47(2), Art 55, Art 95 and Art 251 EC Treaty.	Full accomplishment of the internal market with regard to Community postal services.	Art 1, section 14 (amending Art 12 of Directive 97/67/EC).	The provision allows Member States to maintain or introduce free postal services for the benefit of people with visual disabilities.	
06.02	Directive 2007/65/EC of the EP 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	Art 47(2), Art 55, and Art 251 EC Treaty.	Coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.	Arts 3c, 3e(c), section ii.	Member States are obliged to encourage media service providers under their jurisdiction to ensure that their services are gradually made accessible to people with a visual or hearing disability, and are also obliged to prohibit audiovisual	This provision does not seem to grant enforceable rights.

					commercial communications that include or promote discrimination.	
06.03	Directive 2004/18/EC of the EP and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts	Art 47(2), Art 55, Art 95 and Art 251 EC Treaty.	Coordination of procedures for the awarding of public works contracts, public supply contracts and public service contracts.	Art 19, Art 23(1), Art 23 in conjunction with Annex VI 1(a) and (b).	Art 19 allows Member States to reserve the right to participate in public contract award procedures to sheltered workshops or provide for such contracts to be performed in the context of sheltered employment programmes. In addition, Art 23 provides: "Whenever possible ... technical specifications [in contracts etc. LW] should be defined so as to take into account accessibility criteria for people with disabilities or design for all users."	
06.04	Directive 2004/17/EC of the EP and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors	Art 47(2), Art 55, Art 95 and Art 251 EC Treaty.	Coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.	Art 28, 34, Annex XXI.	Art 28 allows Member States to reserve the right to participate in public contract award procedures to sheltered workshops or provide for such contracts to be performed in the context of sheltered employment programmes.	

					In addition, Art 34 provides: "Whenever possible ... technical specifications [in contracts etc. LW] should be defined so as to take into account accessibility criteria for people with disabilities or design for all users."	
07. Transport policy						
07.01	Regulation (EC) No 1371/2007 of the EP and of the Council of 23 October 2007 on rail passengers' rights and obligations	Art 71(1), Art 251 EC Treaty.	Establishing rail passengers' rights and obligations.	Recital (10), Articles 1 (d), 3(14)d, 3(15), 18(5), 19-25.	Establishes several rights for travellers with disabilities with regard to rail journeys. Among these are a prohibition to refuse travellers with disabilities the right to board a train and prohibitions to charge them additional costs. The provisions also contain several obligations regarding accessibility and obligations to facilitate independent travel by people with disabilities.	Deadline for transposition is 3 December 2009.

07.02	Regulation (EC) No 1370/2007 of the EP and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70	Art 71(1), Art 89, Art 251 EC Treaty.	Defining how, in accordance with EC law, competent authorities may act in the field of public passenger transport, to guarantee the provision of services of general interest which are, among other things, more numerous, safer, of a higher quality or provided at lower cost than those that market forces alone would have allowed.	Art 3.	An exemption which enables Member States to maintain or establish maximum tariffs for the benefit of (among others) people with disabilities through public service contracts with operators.	The provision only creates a possibility, not an obligation, to establish maximum tariffs.
07.03	Regulation (EC) No 1899/2006 of the EP and of the Council of 12 December 2006 amending Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (Text with EEA relevance)	Art 80(2), Art 251 EC Treaty.	Harmonisation of technical requirements and administrative procedures in the field of civil aviation.	Miscellaneous, in Annexes.	Miscellaneous technical and procedural requirements within the field of aviation. Several of the requirements benefit passengers with disabilities.	
07.04	Regulation (EC) No 1107/2006 of the EP and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air Text with EEA relevance.	Art 80(2), Art 251 EC Treaty.	Establishing rights of disabled persons and persons with reduced mobility when travelling by air.	All	The Regulation grants several rights to travellers with disabilities. Disabled people cannot be denied boarding or booking; are entitled to receive assistance at airports and with boarding, and cannot be charged extra for this. The Regulation also establishes standards for assistance.	

07.05	Regulation (EC) No 261/2004 of the EP and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91	Art 80(2), Art 251 EC Treaty.	Establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights.	Article 2 (i), 9(3), 11.	Obligation on airline companies to give preferential treatment to passengers with disabilities (in the event of denied boarding and of cancellation or long delay of flights).	
07.06	Council Regulation (EC) No 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State	Art 75, Art 189c EC Treaty.	Laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State.	Art 4(1)(c)	The carriage of people with reduced mobility is subject to laws, regulations and administrative provisions in force in the host Member State, providing that they meet the minimum requirements of EC law.	This provision seems to protect passengers with disabilities in a certain Member State against lower standards, with regard to disability, of operators of passenger transport services from other Member States.
07.07	Directive 2008/57/EC of the EP and of the Council of 17 June 2008 on the interoperability of the rail system within the Community (Recast) Text with EEA relevance	Art 71, Art 156 and Art 251 EC Treaty.	Establishing the conditions to be met to achieve interoperability within the Community rail system in a manner compatible with the provisions of Directive 2004/49/EC.	Art 2(g) and 31 in conjunction with Annex II, 2.1, 2.6.	Provision contains the obligation to comply with technical requirements regarding rail infrastructure. These requirements take account of the needs of people with reduced mobility.	
07.08	Directive 2006/126/EC of the EP and of the Council of 20 December 2006 on driving licences (Recast) (Text with EEA relevance)	Art 71 EC and Art 251 EC Treaty.	Prescribing uniform regulations regarding driving licences.	Miscellaneous	The Directive contains several provisions with regard to the issuing of driving licences to persons with disabilities. The Directive also prescribes that all examinees should have knowledge about road users with disabilities/reduced	

					mobility.	
07.09	2006/87/EC Directive of the EP and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels and repealing Council Directive 82/714/EEC	Art 71(1) and Art 251 EC Treaty.	Laying down technical requirements to be met by inland waterway vessels.	Miscellaneous (see Annexes)	Several detailed technical requirements applying to covered vessels to promote the safety of, and accessibility for, people with disabilities.	
07.10	Directive 2003/59/EC of the EP and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC	Art 71 and Art 251 EC Treaty.	Laying down regulations on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers.	Annex I, sub 1.5.	Drivers of vehicles to be used for the transportation of passengers are obliged to be trained in dealing with passengers with disabilities/reduced mobility.	
07.11	Directive 2003/24/EC of the EP and of the Council of 14 April 2003 amending Council Directive 98/18/EC on safety rules and standards for passenger ships	Art 71 and Art 251 EC Treaty.	Laying down safety rules and standards for passenger ships, amending Council Directive 98/18/EC.	Art 1(1).	Member States are obliged to establish specific rules on safety and accessibility for passengers with reduced mobility with regard to passenger shipping.	
07.12	Directive 2000/9/EC of the EP and of the Council of 20 March 2000 relating to cableway installations designed to carry persons	Art 47(2), Art 55, Art 95 and Art 251 EC Treaty.	Laying down regulations for cableway installations designed to carry persons.	Art 3 in conjunction with Annex II, section 6.	Establishes obligations to facilitate the safe use of the cableway installations by people with reduced mobility, where the cableway installation is designed for the transport of such	Note that the obligation here is conditional; the cableway installation need to be designed for "the transport of such persons".

					persons.	
07.13	Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services	Art 84(2) and Art 189c EC Treaty.	Laying down a system of mandatory surveys to facilitate the safe operation of regular ro-ro ferries and high-speed passenger craft services.	Arts 5(1) and 8 in conjunction with Annex I section 8 resp Annex III section 3.	Establishes obligations to provide passengers with general information on the availability of services and assistance to people with disabilities, and to organise training for personnel providing direct safety assistance to passengers and, in particular, assistance for elderly and disabled persons in an emergency.	
07.14	Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system	Art 129d and Art 189c EC Treaty.	Establishing the conditions to be met in order to achieve the interoperability of the trans-European high-speed rail system within the EC. The Directive addresses projects for, and the construction, upgrading and operation of, infrastructure and rolling stock	Art 5(3)(b) in conjunction with Annex II.	The provision requires that train stations and train carriages of high-speed rail systems must be accessible for disabled passengers.	
07.15	Council Directive 91/439/EEC of 29 July 1991 on driving licences	Art 75 EC Treaty.	Laying down requirements relating to, amongst other, the issuing of driving licences.	Arts 3(6), 4(2), Annex III	The provisions lay down specific adapted rules with regard to the issuing of driving licences to people with disabilities.	To be repealed on 19 January 2013.

07.16	98/376/EC: Council Recommendation of 4 June 1998 on a parking card for people with disabilities	Art 75(1) and Art 189c EC Treaty.	Recommendation relating to the use by all Member States of a uniform parking card for people with disabilities.	All	The standardised model parking card allows people with disabilities to take advantage of the special parking facilities available in all Member States.	
07.17	Commission Regulation (EC) No 8/2008 of 11 December 2007 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane	Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation, and in particular Article 11(1) thereof.	Amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane.	Art 1 in conjunction with the Annex, in particular OPS 1.1000 (c) (iii) and Appendix 1 to OPS 1.1005 (e) 4.	Establishes safety requirements for commercial transportation by aeroplane, among which are specific provisions relating to the safety of people with disabilities. These provisions provide, amongst others, for instructions for flight personnel regarding passengers with disabilities and specifications with regard to the seating of such passengers.	

07.18	Directive 2004/50/EC of the EP and of the Council of 29 April 2004 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the EP and of the Council on the interoperability of the trans-European conventional rail system	Art 71, Art 156 and Art 251 EC Treaty.	Establishing the conditions to be met to achieve the interoperability of the trans-European high-speed rail system within the EC. These conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of this system placed in service after 30 April 2004, as well as the qualifications and health and safety conditions for the staff who contribute to its operation.			Reference on EUR-Lex is not working (8 April 2009).
08. Competition policy						
08.01	Commission Regulation (EC) of 6 August 2008 declaring certain categories of aid incompatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation)	Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Arts 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid, in particular Art 1(1) points (a) and (b) thereof.	Declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation).	Art 1(1)(i) and (3)(a), Art 2(20) and (21), Art 6(1)(i) and (j), Art 7(4), Art 8(5), Art 39(2), Art 40, 41 and 42.	Several categories of financial aid by states are prohibited by Articles 87 and 88 of the EC Treaty, as being incompatible with the common market. This Regulation creates categories of exemptions to this prohibition of state aid, among which are categories of aid to benefit people with disabilities.	One of the recitals (61) states that, "The promotion of training and the recruitment of disadvantaged and disabled workers and compensation of additional costs for the employment of disabled workers constitute a central objective of the economic and social policies of the Community and of its Member States".

09. Taxation

09.01	Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax	Art 93 EC Treaty.	Laying down regulations regarding the common system of value added tax.	Art 98 in conjunction with Annex II, (4), Art 106 in conjunction with Annex IV (4), Art 370,371 and 375-380 in conjunction with Annex X (5).	The provisions grant exemptions, thereby allowing Member States to apply alternative (reduced) VAT rates on certain goods/services with regard to people with disabilities and transactions made by blind people.	
09.02	Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity	Art 93 EC Treaty.	Restructuring the Community framework for the taxation of energy products and electricity.	Art 5.	Differentiated rates of taxation may be applied by Member States in relation to energy use by/for people with disabilities.	
09.03	Council Directive 83/181/EEC of 28 March 1983 determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods	Art 99 and Art 100 EEC Treaty.	Determining the scope of Article 14 (1) (d) of Directive 77/388/EEC as regards exemption from value added tax on the final importation of certain goods.	Arts 46-48.	Establishing conditions under which goods for people with disabilities can be exempted from VAT.	

09.04	2006/774/EC: Council Decision of 7 November 2006 authorising certain Member States to apply a reduced rate of VAT to certain labour-intensive services in accordance with the procedure provided for in Article 28(6) of Directive 77/388/EEC	Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes - Common system of value added tax: uniform basis of assessment.	Authorising certain Member States to apply a reduced rate of VAT to certain labour-intensive services.	Arts 3(c), 5(c), 6(c), 10(c), 11(c), 14(c).	A reduced VAT rate may be applied in the Member States named in the Decision with regard to domestic care services.	The Decision aims to result in a financial benefit for people with disabilities who use domestic care services.
10. Economic and monetary policy and free movement of capital						
10.01	Regulation (EC) No 1927/2006 of the EP and of the Council of 20 December 2006 on establishing the European Globalisation Adjustment Fund	<i>Already addressed under 05. Freedom of movement for workers and social policy.</i>				
10.02	Council Regulation (EC) No 423/1999 of 22 February 1999 amending Regulation (EC) No 975/98 on denominations and technical specifications of Euro coins intended for circulation	Art 105a(2) and Art 189c EC Treaty.	Laying down the denominations and technical specifications of Euro coins.	Art 1.	The provision sets technical specifications with regard to 10 and 50 cent coins for the benefit of blind and visually impaired people.	
10.03	Council Regulation (EC) No 975/98 of 3 May 1998 on denominations and technical specifications of Euro coins intended for circulation	Art 105a(2) and Art 189c EC Treaty.	Laying down the denominations and technical specifications of Euro coins.	Recital 7, Art 1.	The provision sets technical specifications for Euro coins, some of which are for the benefit of blind and visually impaired people.	

11. External relations						
11.01	Commission Regulation (EC) No 718/2007 of 12 June 2007 implementing Council Regulation (EC) No 1085/2006 establishing an instrument for pre-accession assistance (IPA)	Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA), (in particular art 3(3)).	Establishing an instrument for pre-accession assistance (IPA).	Art 3, art 169(3)(g)(iv).	The provision contains a general non-discrimination clause with regard to pre-accession assistance (i.e. assistance for EU candidate states). Such assistance must not have a discriminating effect. Article 169 prescribes that the beneficiary states should report which actions are undertaken with regard to the inclusion in employment and society of people with disabilities.	
11.02	Regulation (EC) No 1889/2006 of the EP and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide	Art 179(1) (ex art 130w EC Treaty), Art 181a(2), Art 251 (ex art 189b EC Treaty), EC Treaty.	Establishing a financing instrument for the promotion of democracy and human rights worldwide.	Art 1(1), section b. subs. (iii) and (vii) and section (2).	The instrument can be used to assist in the promotion of the rights of people with disabilities in developing countries.	
11.03	Regulation (EC) No 1905/2006 of the EP and of the Council of 18 December 2006 establishing a financing instrument for development cooperation	Arts 179(1) (ex art 130w EC Treaty), and Art 251 (ex art 189b EC Treaty) EC Treaty.	Establishing a financing instrument for development cooperation.	Art 5(2)(b)(i),	The provision facilitates support to reinforce the rights of people with disabilities in developing countries and to combat discrimination.	

11.04	79/505/EEC: Council Decision of 8 May 1979 on the conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials		<i>Already addressed under 02. Customs union and free movement of goods.</i>			
13. Industrial policy and internal market						
13.01	Directive 2007/46/EC of the EP and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)	Art 95 and Art 251 EC Treaty.	Establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles.	Art 39(2).	The provision states that the Commission "shall adopt amendments to the annexes to this Directive (...) which are necessary to adapt them to (...) the specific needs of persons with disabilities".	
13.02	Directive 2007/47/EC of the EP and of the Council of 5 September 2007 amending Council Directive 90/385/EEC on the approximation of the laws of the Member States relating to active implantable medical devices, Council Directive 93/42/EEC concerning medical devices and Directive 98/8/EC concerning the placing of biocidal products on the market Text with EEA relevance	Art 95 and Art 251 EC Treaty.	Amending Directive 98/8/EC concerning the placing of biocidal products on the market.	Annex II section 1 (amending original Annex I).	The provision establishes an obligation to meet the needs of users with disabilities with regard to the packaging of biocidal products.	

13.03	Directive 2006/42/EC of the EP and of the Council of 17 May 2006 on machinery, and amending Directive 95/16/EC (recast)	Art 95 and Art 251 EC Treaty.	Laying down requirements for various kinds of machinery.	Art 24.	The provision states: "Where the lift is intended for the transport of persons, and where its dimensions permit, the car must be designed and constructed in such a way that its structural features do not obstruct or impede access and use by disabled persons and so as to allow any appropriate adjustments intended to facilitate its use by them."	The obligation to provide for accessibility is conditional.
13.04	Directive 2005/40/EC of the EP and of the Council of 7 September 2005 amending Council Directive 77/541/EEC on the approximation of the laws of the Member States relating to safety belts and restraint systems of motor vehicles	Art 95 and Art 251 EC Treaty.	Approximation of the laws of the Member States relating to safety belts and restraint systems of motor vehicles (amending Council Directive 77/541/EEC).	Art 1, 2.	The provisions allow Member States to set differentiated requirements with regard to seatbelts for people with disabilities.	
13.05	Directive 2004/27/EC of the EP and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use	Art 95 and Art 251 EC Treaty.	Amending the Community code relating to medicinal products for human use (amending Directive 2001/83/EC).	Arts 1, 42 (inserting Article 56a).	The provision contains an obligation to print information in Braille on certain types of medicines.	The requirement is to be enforced by the national authorities on medicines.
13.06	Directive 2003/102/EC of the EP and of the Council of 17 November 2003 relating to the protection of pedestrians and other vulnerable road users before and in the event of a collision with a motor vehicle and amending Council Directive 70/156/EEC	Art 95 and Art 251 EC Treaty.	Reduction of injuries to pedestrians and other vulnerable road users who are hit by certain vehicles.			This Directive is soon to be replaced by another one. More info. is available at: http://www.europarl.europa.eu/oeil/file.jsp?id=5540042 .

13.07	Directive 2002/22/EC of the EP and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)	Art 95 and Art 251 EC Treaty.	Prescribing universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).	Art 6(1), Art 7, Art 11 (2), Art 33.	Article 6(1) states: "Member States shall ensure that national regulatory authorities can impose obligations on undertakings in order to ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones, the accessibility of such telephones to disabled users and the quality of services." Art 7(1) states: "Member States shall, where appropriate, take specific measures for disabled end-users in order to ensure access to and affordability of publicly available telephone services, including access to emergency services, directory enquiry services and directories, equivalent to that enjoyed by other end-users". Finally Art 33 should ensure, as far as appropriate, that national regulatory authorities take account of the views of end-users and consumers, including in particular	
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					disabled users of communication services.	
13.08	Directive 2002/21/EC of the EP and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive)	Art 95 and Art 251 EC Treaty.	Establishing a common regulatory framework for electronic communications networks and services (Framework Directive).	Recital 8, Art 8 (2)(a) and (4)(e).	The Preamble states that it is important for regulators to encourage network operators and terminal equipment manufacturers to cooperate in order to facilitate access by disabled users to electronic communications services. The Directive also requires national regulatory authorities to promote competition in the provision of services to ensure that users, including disabled users, derive maximum benefit in terms of choice, price and quality, and requires the authorities to address the needs, in particular, of disabled users.	
13.09	Directive 2001/85/EC of the EP and of 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, and amending Directives 70/156/EEC and 97/27/EC	Art 95 and Art 251 EC Treaty.	Prescribing regulations 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 70/156/EEC and 97/27/EC).	Art 3 in conjunction with Annex VIII.	Vehicles constructed to include areas for standing passengers, so as to allow frequent passenger movement, must be accessible for wheelchair users and other passengers with reduced mobility, and must comply with the	

					technical requirements of Annex VII.	
13.10	Directive 2001/16/EC of the EP and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system	Art 156 and Art 251 EC Treaty.	Establishing the conditions to be met to achieve interoperability of the trans-European conventional rail system within the EC.	Art 1, Annex II, sections 2.1 and 2.6.	The provisions establish obligations to achieve safe and accessible subsystems of the infrastructure (i.e. meeting the needs of people with disabilities) by means of technical requirements.	Note that this directive has been amended by Directive 2004/50/EC of the EP and of the Council of 29 April 2004 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the EP and of the Council on the interoperability of the trans-European conventional rail system.
13.11	Directive 2000/31/EC of the EP and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')	Art 47(2), Art 55 Art 95 and Art 251 EC Treaty.	Contributing to the proper functioning of the internal market by ensuring the free movement of information society services between the Member States.	Art 16(2).	The provision provides that Member States and the Commission shall encourage the involvement of associations representing visually impaired and disabled people with regard to the drafting and implementation of codes of conduct affecting their interests.	
13.12	Directive 2000/9/EC of the EP and of the Council of 20 March 2000 relating to cableway installations designed to carry persons		<i>Already addressed, q.v. 07. Transport policy.</i>			

13.13	Directive 1999/5/EC of the EP and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity	Art 100a and Art 189b EC Treaty.	Establishing a regulatory framework for the placing on the market, free movement and putting into service in the Community, radio equipment and telecommunications terminal equipment.	Art 3(3 sub (f)).	The provision that enables the Commission to decide that apparatus within certain equipment classes or apparatus of particular types shall be so constructed that it supports certain features in order to facilitate its use by users with a disability.	
13.14	EP and Council Directive 95/16/EC of 29 June 1995 on the approximation of the laws of the Member States relating to lifts	Art 100a EC and Art 189b EC Treaty.	Approximation of the laws of the Member States relating to lifts.	Art 4 in conjunction with Annex I, sections 1.2 and 1.6.1.	The provisions establish technical requirements to promote safety and accessibility for users with a disability.	
13.15	Decision No 1336/97/EC of the EP and of the Council on a series of guidelines for trans-European telecommunications networks	Art 129d and Art 189b EC Treaty.	Laying down a series of guidelines for trans-European telecommunications networks.	Annex I, section 1.	The provision provides that operators of networks should pay specific attention to the accessibility of their services for people with disabilities.	Consolidated text (this decision was changed by Decision 1376/2002/EC, q.v. 16.).
13.16	Decision No 1982/2006/EC of the EP and of the Council of 18 December 2006 concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) - Statements by the Commission	Art 166(1) and Art 251 EC Treaty.	Strengthening research, technological development and demonstration activities (2007-2013).	Art 2 in conjunction with Annex I, section I, subsection 1."health" and 3. "Information and Communication Technologies (ICT)".	The provision provides for the support of research with regard to disability issues and design-for-all devices in the field of ICT. Social inclusion is mentioned as the rationale for this.	

13.17	2008/164/EC: Commission Decision 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)	Directive 2001/16/EC of 19 March 2001 of the European Parliament and of the Council on the interoperability of the conventional rail system, speed rail system, in particular Article 6(1) and Directive 96/48/EC of 23 July 1996 of the European Parliament and of the Council on the interoperability of the high-speed rail system, in particular Article 6(1).	Harmonising the provisions to be made to facilitate travel by persons with reduced mobility on the conventional and high-speed railway system while realising the interoperability of the railway system.	Art 1 in conjunction with the Annexes.	The provisions establish multiple technical specifications for the benefit of passengers with reduced mobility. These include: wheelchair accessible doorways and facilities, compulsory visible and audible information at railway stations, emergency facilities for people with disabilities and disability training and awareness for railway station personnel.	
14. Regional policy and internal market						
14.01	Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999	Art 161 EC Treaty.	Laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund.	Art 16.	The provision provides that accessibility for persons with disabilities shall be one of the criteria to be observed in defining operations co-financed by the Funds and should be taken into account during the various stages of implementation. Art 16 also contains a general non-discrimination clause with regard to	The Regulation is regarded as an important instrument to promote accessibility for people with disabilities.

					the use of the Funds.	
14.02	Regulation (EC) No 1081/2006 of the EP and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999	Art 148 and Art 251 EC Treaty.	Laying down regulations concerning the European Social Fund (ESF).	Art 2(2), 3(1)(c)(i) and Art 9.	The provisions provide that combating social exclusion and promoting participation by people with disabilities are amongst the objectives of the Fund.	
14.03	Regulation (EC) No 1080/2006 of the EP and of the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999	Art 162 (first paragraph), Art 299 (2, second subparagraph) and Art 251 EC Treaty.	Laying down regulations concerning the European Regional Development Fund.	Recital 8.	The provision includes a general non-discrimination clause with regard to the use of the funds.	The Recital emphasises that the use of the Fund should never have a discriminating effect.
14.04	Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)	Art 36, Art 37 and Art 299(2) EC Treaty.	Laying down regulations concerning the European Agricultural Fund for Rural Development (EAFRD).	Art 8.	The provision includes a general non-discrimination clause with regard to the use of the fund.	The provision emphasises that the use of the Fund should never have a discriminating effect.

14.05	2006/702/EC: Council Decision of 6 October 2006 on Community strategic guidelines on cohesion	Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999, in particular the first subparagraph of Art 25 thereof.	Laying down Community strategic guidelines on cohesion, which provide an indicative framework for the Member States for the preparation of the national strategic reference frameworks and operational programmes for the period 2007 to 2013.	Art 1 in conjunction with the Annex, miscellaneous provisions.	Several provisions in this Decision call on Member States to adopt policies with regard to (in particular) accessibility and inclusive labour markets for people with disabilities.	The decision is mainly of importance as a policy document, which is addressed to the Member States as an indicative framework for their respective policies.
15. Environment, consumers and health protection						
15.01	Regulation (EC) No 261/2004 of the EP and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91		<i>Already addressed q.v. 07. Transport policy.</i>			
15.02	Directive 2002/22/EC of the EP and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)		<i>Already addressed q.v. 13: Industrial policy and internal market.</i>			

15.03	Directive 2005/29/EC of the EP and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the EP and of the Council and Regulation (EC) No 2006/2004 of the EP and of the Council ('Unfair Commercial Practices Directive')	Art 95 and Art 251 EC Treaty.	Contributing to the proper functioning of the internal market and aiming to achieve a high level of consumer protection by approximating the laws, regulations and administrative provisions of the Member States on unfair commercial practices harming consumers' economic interests.	Art 5(3).	The provision states: "Commercial practices which are likely to materially distort the economic behaviour only of a clearly identifiable group of consumers who are particularly vulnerable to the practice or the underlying product because of their mental or physical infirmity, age or credulity in a way which the trader could reasonably be expected to foresee, shall be assessed from the perspective of the average member of that group."	This provision offers protection to vulnerable consumers (provided they are part of a "clearly identifiable group"). This means that traders are obliged to take into account foreseeable vulnerabilities of the specific group.
16. Science, information, education and culture						
16.01	Council Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 amending Regulation (EEC, Euratom) No 354/83 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community	Art 308 EC Treaty and Art 203 EAEC Treaty.	Laying down regulations concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community.	Art 8.	The provision establishes obligations for the European institutions to meet special needs of people with visual impairments when they request access to information held in the archives.	
16.02	Decision No 1719/2006/EC of the EP and of the Council of 15 November 2006 establishing the Youth in Action programme for the period 2007 to 2013	Art 149(4) and Art 251 EC Treaty.	Establishing the Youth in Action programme for the period 2007 to 2013.	Art 3(1)(h), Art 3(4)(d).	The provisions pay specific attention to improving the position of, and accessibility for, young people with disabilities within the	

					EU.	
16.03	Decision No 1376/2002/EC of the EP and of the Council on a series of guidelines for trans-European telecommunications networks		<i>Already addressed q.v. 13.</i>			Decision amends Decision No 1336/97/EC of the EP and of the Council.
16.04	Decision No 1336/97/EC of the EP and of the Council on a series of guidelines for trans-European telecommunications networks		<i>Already addressed, q.v. 13, Industrial policy and internal market.</i>			Consolidated text (this decision was changed by Decision 1376/2002/EC).
16.05	79/505/EEC: Council Decision of 8 May 1979 on the conclusion of the Protocol to the Agreement on the importation of educational, scientific and cultural materials		<i>Already addressed q.v. 2, Customs union and free movement of goods.</i>			
16.06	Decision No 1720/2006/EC of the EP and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning	Art 149(4), Art 150(4) and Art 251 EC Treaty.	Establishing an action programme in the field of lifelong learning.	Art 1(3)(f), art 12, recital 36.	This programme pays attention to the importance of lifelong learning for people with disabilities.	
17. Law relating to undertakings						
17.01	Directive 2001/29/EC of the EP and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society	Art 47(2), Art 55, Art 95 and Art 251 EC Treaty.	Harmonising certain aspects of copyright and related rights in the information society.	Art 5(3), subsection b.	The rights of reproduction, communication to the public of works, and making available to the public other subject matter may (under certain conditions) be limited by Member States for the benefit of users with disabilities.	

19. Area of freedom and security policy

19.01	Regulation (EC) No 863/2007 of the EP and of the Council of 11 July 2007 establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of quest officers	Art 62(2)(a), Art 66 and Art 251 EC Treaty.	Establishing a mechanism for the creation of Rapid Border Intervention Teams and amending Council Regulation (EC) No 2007/2004.	Art 6(2).	The provision contains a general non-discrimination provision.	Discrimination on the grounds of disability (among other possible grounds of discrimination) is explicitly covered with regard to border checks.
19.02	Regulation (EC) No 562/2006 of the EP and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code)	Art 62(1) and (2)(a) and Art 251 EC Treaty.	Establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).	Art 6(2).	The provision contains a general non-discrimination provision.	Discrimination on the grounds of disability (among other possible grounds of discrimination) is explicitly covered with regard to border checks.
19.03	Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted	Art 63(1)(c), (2)(a) and (3)(a) EC Treaty.	Laying down minimum standards for the qualification of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.	Art 20(3).	The provision establishes an obligation on Member States to take into account the specific situation of "vulnerable persons such as disabled people".	

19.04	Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities	Art 63(3) EC Treaty.	Defining the conditions for granting residence permits of limited duration, linked to the length of the relevant national proceedings, to third-country nationals who cooperate in the fight against trafficking in human beings or against action to facilitate illegal immigration.	Art 9.	The provision establishes an obligation on Member States to provide necessary medical or other assistance to the third-country nationals concerned, who do not have sufficient resources and have special needs, such as persons with disabilities.	
19.05	Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers	Art 63(1) point (1)(b) EC Treaty.	Laying down minimum standards for the reception of asylum seekers.	Art 17.	The provision states: "Member States shall take into account the specific situation of vulnerable persons such as (...) disabled people (...)". This is a general principle with regard to policy regarding asylum seekers.	
19.06	Decision No 573/2007/EC of the EP and of the Council of 23 May 2007 establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme Solidarity and Management of Migration Flows and repealing Council Decision 2004/904/EC	Art 63(2)(b) and Art 251 EC Treaty.	Establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme Solidarity and Management of Migration Flows.	Art 3(9).	The provision provides that actions on behalf of the Fund shall take account of vulnerable groups, such as people with disabilities.	
19.07	2007/435/EC: Council Decision of 25 June 2007 establishing the European Fund for the Integration of third-country nationals for the period 2007 to 2013 as part of the General programme Solidarity and	Art 63(3)(a) EC Treaty.	Establishing the European Fund for the Integration of Third-country Nationals.	Art 4(2)(c).	The provision provides that Member States should reinforce their integration actions in order to be able to "reach out" to immigrants with	



	Management of Migration Flows				disabilities.	
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