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## The European Disability Strategy 2010-2020

The European Disability Strategy 2010-2020 (EDS) constitutes a comprehensive multiannual framework for implementing the United Nations Convention on the Rights of Persons with Disabilities (CRPD) at EU level. The EDS and CRPD are thus closely intertwined. Whilst many stakeholders had called for a revision of the EDS, the recent European Commission progress report suggests instead to maintain the Strategy's objectives for the remaining period. However, given that the current Strategy ends in 2020, preparation of the future disability framework will need to start before much longer. This briefing, prepared by the Ex-Post Evaluation Unit of the European Parliamentary Research Service (EPRS), aims to outline the scope and objectives of the EDS and to analyse its implementation. It has been drafted in support of the implementation report on the EDS, which is currently being drawn up by the Committee on Employment and Social Affairs (EMPL) in close consultation with disability organisations, in response to the Commission's progress report.

### The European Disability Strategy 2010-2020 in context

#### Relationship between the EDS and the CRPD

The EU adopted the [European Disability Strategy 2010-2020](#) (EDS) in November 2010, shortly before the [UN Convention on the Rights of Persons with Disabilities](#) (CRPD) entered into force for the EU.<sup>1</sup> The strategy's declared aim was to empower people with disabilities, so that they can enjoy their full rights as EU citizens and participate in society on an equal basis to others, in a barrier-free Europe. The EDS builds on the values enshrined in the Treaties, the experience of the [preceding EU disability policy framework](#), as well as the [Europe 2020 strategy](#). At the same time, it provides the main instrument for implementing the CRPD at EU level. In fact, the EU's conclusion of the CRPD has considerably influenced the formulating of EU disability policies.

The scope of the Convention is very broad, touching upon virtually every aspect of life. In this respect, the CRPD sets out minimum standards for protecting and safeguarding the civil, political, economic, social and cultural rights of persons with disabilities, with the overall aim of significantly improving their living conditions. Two guiding principles – equality and non-discrimination – underpin the Convention's rights-based approach to disabilities. The CRPD does not, in principle, create any new rights, but rather reaffirms and codifies existing ones.

The CRPD is a legally binding human rights treaty. Consequently, at the EU level, its provisions have become an integral part of the EU's legal order. All existing and future legislation must thus be in line with the CRPD. Formally, it is a 'mixed agreement', since disability issues largely fall under the shared competence of the EU and its Member States. Therefore, both the EU and the Member States are obliged to implement their obligations under the Convention according to their respective competences. Whilst the EU

#### Definition of disability

The EDS deliberately does not define disability, arguing that 'there is no EU-wide definition of disability'. Instead, it makes reference to the approach taken by the CRPD to consider disability an 'evolving concept'. Thus, rather than providing an exhaustive definition, the CRPD favours an open concept, as stated in its Article 1:

*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.*

Notwithstanding this, at EU level, the Court of Justice (CJEU) has in recent years made attempts to [define](#) disability in its jurisprudence.

<sup>1</sup> The EU (then the European Community) signed the CRPD on 30 March 2007; following its ratification process, it entered into force for the EU on 22 January 2011. With the exception of Ireland, all EU Member States have now ratified the Convention.

has shared competence in areas such as the Single Market, transport and justice (including non-discrimination), in other areas, for example health, education and vocational training, and culture, the EU's competence is limited to supporting and supplementing national measures. The list of EU competences is detailed in a declaration, which is to be updated as the *acquis* evolves.<sup>2</sup>

Implementing the Convention entails – among other things – that the states parties mainstream disability rights throughout their legislation, policies, action programmes and standards. This is a challenging long-term process. The – progressive – implementation of the Convention by its parties is overseen by a dedicated Geneva-based UN Committee of experts. For the EU, the first implementation review round ended in autumn 2015 with the issuance of the CRPD Committee's '[Concluding Observations](#)' (CO). Even though the Concluding Observations recognise the EU's explicit commitment to equality and non-discrimination of persons with disabilities in primary law as a 'positive aspect', they contain numerous recommendations for further EU action to ensure full compliance of EU legislation with the CRPD. The EU's follow-up report to the Concluding Observations is due by January 2021.

By that date, the EU should also have a new disability framework in place, because the current strategy expires in 2020. This future post-2020 EU Disability framework<sup>3</sup> will need to close – or at least further diminish – the gap between the EU's disability policy and the full implementation of the CRPD, by acting on the recommendations laid down in the Concluding Observations, and following up on the key areas of the 2010-2020 strategy. One of the UN CRPD Committee's main concerns is that the EU needs a genuine implementation strategy with an allocated budget, a time frame and a specific monitoring mechanism (CO points 8 and 9). Moreover, pursuant to the EU's Better Law-Making approach, the post-2020 disability framework should draw on the lessons learned from the current strategy, and also take stakeholders' views into due account.

### **A rights-based, inclusive approach to disability**

By putting the focus on disabled people's autonomy and their human right to full inclusion in society, the CRPD embraces a rights-based approach to disability. It thereby over-rides the formerly often predominant welfare (or medical) model. At EU level, however, the conclusion of the CRPD – and likewise the adoption of the EDS – did not entail a radical paradigm shift, as the two preceding EU disability frameworks (adopted in 1996 and 2003)<sup>4</sup> had already pursued a rights-oriented disability policy.<sup>5</sup> This approach focuses on the removal of socially created barriers, to which the subtitle of the EDS (*A renewed commitment for a barrier-free Europe*) makes explicit reference.

Prior to the EDS, disability mainstreaming did not systematically occur, and the EU's commitment to the social model was more manifest in some areas than others. The Employment Equality Directive ([2000/78/EC](#)), and transport legislation governing the rights of passengers can be considered as early examples of a rights-oriented attitude towards disabilities. Overcoming the medical model entails a change of mindset on the ground, for instance, on the labour market, in schools and administrations, on the market for goods and services and in society as such. In their daily lives, persons with disabilities still often find themselves confronted with a lack of awareness of their rights (amongst the disabled, and even more so, amongst the non-disabled), along with stereotyping and prejudice. With regard to disability, there often appears to be a long way to go from enshrined rights to being a matter of course in practice. This is sometimes referred to as the 'implementation gap'.

In the EU, a holistic approach to disability rights, spanning all EU policies and legislation, has gradually evolved over time (and continues evolving). In this respect, the strong emphasis on disability mainstreaming across policies is one of the most obvious features of the EDS; being present in each of the eight priority themes. Another recurring EDS objective is capacity-building amongst persons with disabilities and their representative

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<sup>2</sup> The initial declaration was annexed to the [Council Decision 2010/48/EC](#). OJ L 23, 27.1.2010 (Annex II).

<sup>3</sup> The Commission has apparently not yet decided what format the post-2020 disability framework will take; it may not necessarily be another multiannual strategy. Disability organisations and stakeholders will be involved in the reflections on the design and scope.

<sup>4</sup> COM(96) 406 of 30 July 1996; COM(2003) 650 of 30 October 2003.

<sup>5</sup> The evolution of the EU's disability policy is described by David L. Hosking: 'Staying the course: the European Disability Strategy 2010-2020', In: *European yearbook of disability law*, Vol. 4, 2013, pp. 73-98.

organisations, plus their systematic involvement in policy-making. In that respect, the Strategy calls for continuous funding of umbrella civil society organisations acting at EU and national level.

## Structure, scope and content of the EDS

The EDS, adopted by the Commission towards the end of 2010, had been mandated by primary law – in particular the Treaties and the Charter of Fundamental Rights<sup>6</sup> – and by two Council resolutions adopted in [2008](#) and [2010](#). The latter invited the Commission ‘to support the effective implementation of the UN Convention by the Member States and the EU institutions’, and ‘to prepare, in cooperation with the Member States, persons with disabilities and their representative organisations and other relevant stakeholders, a new European Disability Strategy building on the values enshrined in the European Treaties, the Europe 2020 strategy and the UN Convention’.

The European Disability Strategy 2010-2020 was accompanied by two related Commission documents:

- the comprehensive Commission Staff Working Document [SEC\(2010\) 1323](#), providing factual evidence and supporting data for the EDS, including input received from stakeholders during the consultation process;
- a ‘list of actions’ ([SEC\(2010\) 1324](#)), which constitutes the operational implementation plan for the first five years across the EDS’ thematic priorities and its general implementation instruments.

The list of actions comprises numerous measures – legislation and other related policy instruments (e.g. soft law measures, standards and research/studies) – in line with the level of EU competence in the specific area. All listed actions bear a deadline, stating by when the measure should be achieved. With a view to Member States’ substantial competences in disability-related policies, the EDS puts strong emphasis on the subsidiarity principle. To this effect, it stresses for each of the thematic priorities that EU action serves to support and supplement national disability policies. Academic David Hosking considers this respect of subsidiarity as crucial to maintaining Member States’ political support for EU initiatives related to disability.<sup>7</sup>

### Priority areas of the European Disability Strategy 2010-2020

To pursue the objectives of the EDS, including effective implementation of the CRPD, eight priority areas were identified. Their overall goal is to achieve a barrier-free Europe.

#### Priority areas of the European Disability Strategy 2010-2020

<b>Accessibility</b>	Make goods and services accessible to people with disabilities and promote the market for assistive devices
<b>Participation</b>	Ensure that people with disabilities enjoy all benefits of EU citizenship; remove barriers to equal participation in public life and leisure activities; promote the provision of quality community-based services
<b>Equality</b>	Combat discrimination based on disability, and promote equal opportunities
<b>Employment</b>	Raise significantly the share of persons with disabilities working in the open labour market
<b>Education/ training</b>	Promote inclusive education and lifelong learning for pupils and students with disabilities
<b>Social protection</b>	Promote decent living conditions for disabled people, combat poverty and social exclusion
<b>Health</b>	Promote equal access to health services and related facilities for people with disabilities
<b>External action</b>	Promote the rights of people with disabilities within the EU's external action

Under the heading **accessibility**, the EDS aims at improving accessibility of the built environment, transport and ICT (including the internet). Furthermore, it intends to substantially improve the functioning of the internal market for accessible products and services, including public procurement and assistive technology.

<sup>6</sup> Cf. e.g. Article 2 TEU; Articles 10 and 19 TFEU; Articles 1, 21 and 26 of the Charter on Fundamental Rights.

<sup>7</sup> Cf. Hosking, p. 97.

**Participation** relates to the exercise of fundamental rights as EU citizens, on a level playing field, and equal participation in society. This theme covers a wide range of issues, e.g. the right to free movement, the transition from institutional to community-based care, including access to personal assistance, and full access to cultural, sports and leisure activities. It also addresses exceptions in the copyright framework for the blind and visually impaired (i.e. books in accessible formats), and, important particularly with a view to the next European Parliament elections in 2019, full access to electoral rights for persons with disabilities.

The overall objective of the **equality** theme is to eradicate discrimination on grounds of disability across the EU. It encompasses a two-tier approach, namely combatting discrimination and promoting equal opportunities. A novelty in this regard is the EDS' concern about multiple discrimination, when persons with disabilities face other forms of discrimination at the same time (e.g. due to their sex, race or sexual orientation).

The **employment** theme is geared towards raising the overall employment rate of persons with disabilities, particularly in the open labour market (as opposed to sheltered workshops or other facilitated working arrangements). In this respect, the EDS acknowledges that a decent income is fundamental to economic independence, and in protecting persons with disabilities against poverty.

The overarching aim of action on **education and training** is to promote inclusive education in the general education system and lifelong learning for pupils and students with disabilities. Meeting individual special needs, and keeping young people beyond the age of 16 in education, is as much an issue under this theme as cross-border mobility of students with disabilities.

The **social protection** heading addresses income inequalities, poverty and social exclusion. In this area, the EDS promotes, above all, decent living conditions for persons with disabilities, whereas the **health** theme stresses the need for equal access to health care and health-related issues (e.g. rehabilitation, prevention and safety at work).

And finally, under the **external action** theme, the EDS emphasises that the human rights approach also applies to the EU's external policies. To this aim, it promotes disability mainstreaming across external policies, including development programmes, enlargement and humanitarian aid.

The EDS makes repeated reference to the [Europe 2020 strategy](#), the EU's inclusive growth agenda. Employment and social policies are key elements of the EU's 2020 strategy, which was adopted in 2010, a few months before the EDS. No less than three of its five headline targets relate to employment, social policies and education, namely:

- raising the employment rate for women and men aged 20-64 to 75 %;
- reducing the rate of early school leaving to under 10 % and, at the same time, raising the share of 30-34 years old having completed tertiary education to at least 40 %;
- lifting at least 20 million people out of poverty, or the risk of poverty and exclusion.

To achieve the Europe 2020 targets for employment, education and poverty reduction, 'full economic and social participation of people with disabilities is essential', according to the EDS (p. 4). To this end, a number of Europe 2020 flagship initiatives address disability issues, most importantly the *European Platform against Poverty*, the *Agenda for New Skills and Jobs*, and *Youth on the Move*.

### **General implementation instruments**

The effective implementation of the EDS across its eight thematic priorities relies on general implementation instruments, particularly funding, awareness-raising, statistics and data collection, and research.

### The EDS' general implementation instruments

<b>Awareness-raising</b>	Raise society's awareness of disability issues and foster greater knowledge among people with disabilities of their rights and how to exercise them
<b>Financial support</b>	Optimise use of EU funding instruments for accessibility and non-discrimination and increase visibility of disability-relevant funding possibilities in post-2013 programmes
<b>Statistics and data</b>	Supplement the collection of periodic disability-related statistics with a view to monitoring the situation of persons with disabilities
<b>CRPD mechanisms</b>	Establish a governance framework required under Article 33 CRPD <sup>8</sup>

From amongst the EDS' implementation instruments, collecting **statistical data** and undertaking research is a particularly crucial factor for evidence-based policy making. The Council, in the light of [Article 31 CRPD](#), had argued already in its [2008 resolution](#) that 'statistical and research data allow informed disability policies to be formulated and implemented at the different levels of governance'. Prior to this, back in 2003, the Commission stated in a similar vein that 'assessing the effectiveness of disability policies is hampered by a lack of data and quantitative and qualitative evolution of outcomes', concluding that 'more efforts should be made at EU and national level to develop indicators and improve the collection of comparable data.'<sup>9</sup>

To be meaningful for policy-making, statistical data need to be disaggregated, as required under Article 31 CRPD. To this effect, the EDS aims at streamlining Eurostat data collected through social surveys, and at monitoring the situation of people with disabilities with a view to the Europe 2020 targets related to education, employment and poverty. Furthermore, the EDS tasked the EU Fundamental Rights Agency (FRA) to contribute to data collection, research and the development of indicators.

#### Statistical data

Disability-related data and statistics are an area of concern, in so far as the availability of sound data is a precondition for evidence-based policy making. Despite some progress in the gathering of statistical data (see progress report, pp. 17-18), there is still a lack of periodic and disaggregated data at EU level for all rights covered in the UNCRPD. Statistical data currently available stem from two regular EU-wide surveys:

- Statistics on Income and Living Conditions (**EU-SILC**): this annual survey on social inclusion collects data on people with long-standing health problems resulting in limitations on their activity (a proxy for disabilities); however, since the scope of this survey is very broad, and only a limited number of questions relate to disabilities; it therefore covers only some aspects of disabilities;
- European Health Interview Survey (**EHIS**): this survey, run every five years, gathers data on the level of activity limitations and health status;

In addition, two one-off surveys targeted persons with disabilities and provide, to date, the most comprehensive data on persons with disabilities:

- Labour Force Survey (**LFS-AHM**): LFS ad-hoc module on employment of persons with disabilities, run in 2011; and
- the European Health and Social Integration Survey (**EHSIS**), conducted in 2012-13, covers a wide range of barriers people with health problems and impairments face.

<sup>8</sup> The EU's governance framework is explained in: Irmgard Anglmayer, EU implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD), European Implementation Assessment, EPRS, February 2016.

<sup>9</sup> COM(2003) 650, p. 26.

Eurostat [describes](#) a number of challenges to comprehensive disability-related data collection which would be comparable across the EU. These include the following aspects:

- There is no fixed definition of disability, nor is there a single method to measure it. Due to the multidimensionality of disability, Member States apply divergent methodologies, which impacts on the consistency and comparability of collected data.
- The most comprehensive disability-related data are from 2011 and 2012.
- The current survey framework does not consider certain age and social groups (e.g. children under the age of 15; or people living in care institutions); with respect to children, Eurostat plans to run a specific EU-SILC survey module on children in the course of 2017 (see Commission progress report, p. 18).
- Disability surveys mostly rely on self-reporting and hence produce subjective data.

The UN CRPD Committee criticised the shortcomings related to data collection and recommended that the EU 'develop a human rights-based indicator system in cooperation with persons with disabilities and their representative organizations, as well as a comparable comprehensive data collection system, with disaggregated data by gender, age, rural or urban population and impairment type' (CO points 72 and 73). This point was taken up by the EP and the EESC; both called, in their respective opinions on the Concluding Observations, on the Commission and Eurostat to develop human rights-based indicators and appropriate statistical tools that allow for improved data collection. In this context, the Commission is currently financing a project of the Office of the High Commissioner of Human Rights (OHCHR) to develop indicators for the CRPD, which allow for better monitoring of the CRPD implementation.

The Commission also requested Eurostat to introduce a new disability-related question (Global Activity Limitation Indicator – GALI) into all relevant surveys. Moreover, to improve the evidence base, the EU is currently working on a modernisation and streamlining of EU social statistics, which should make statistical data better comparable and more coherent. The relevant [Commission proposal](#) for a regulation establishing a common framework for European statistics relating to persons and households dates from August 2016 and is currently discussed in the EMPL Committee (rapporteur Tamás Meszerics, Greens, Hungary).

## Reactions to the EDS

### EU institutions

The **European Parliament**, which had not formally been involved in shaping the EDS, drew up an own-initiative report (rapporteur: Adam Kósa, EPP, Hungary) after the Strategy was adopted. In the ensuing [resolution](#) (2011), Parliament stressed the importance of the Strategy's objectives, and acknowledged the efforts made in respect to disability-related legislation. At the same time, it took the view that 'more should be done' to fully integrate people with disabilities in society. It called in particular for more detailed actions, based on reliable data, and for the involvement of persons with disabilities and their representative organisations in any measures which affect them directly or indirectly, as a basic principle. Parliament criticised the EDS for lacking any ambition with regard to gender aspects of disability policy, and underlined the need for more gender-specific data.

Similarly, the **European Economic and Social Committee (EESC)** adopted an own-initiative [opinion](#) in 2011 (rapporteur: Ioannis Vardakastanis, who is, besides being an EESC member, also President of the European Disability Forum). This opinion welcomed the EDS as a 'fundamental policy instrument' and 'formal confirmation by the EU' of the CRPD's legally binding status. It emphasised the link between the implementation of the EDS and the Europe 2020 strategy. Moreover, it strongly recommended developing disability-specific indicators 'to collect consistent data in all areas of a person's life'. Overall, it attested that the EDS did 'partially reflect the ambitions' of the CRPD, and called for evidence of the effectiveness of existing policy instruments by means of studies and research.

The **Council**, in its 2011 [conclusions](#), put the focus on the financial instruments, by calling for ‘appropriate use of existing funding’ to implement the proposed actions, and for mainstreaming of disability within the Europe 2020 strategy.

### **Civil society**

Disability organisations welcomed the adoption of the EDS. The *European Disability Forum (EDF)*, an umbrella NGO representing national and European disability organisations, found that ‘the UN Convention and the European Disability Strategy together present a unique opportunity’, insisting that the rights enshrined in the Convention ‘need to be delivered’.<sup>10</sup> Similarly, *Inclusion Europe* – an NGO representing people with intellectual disabilities – [praised](#) it as an ‘ambitious document’. It particularly welcomed the measures in favour of community-based care and independent living. However, it noted critically that the EU had not seized ‘the opportunity of renewing its proposal for a strong Anti-Discrimination Directive’. Also, *Autism Europe* [hailed](#) the Strategy, together with its ‘range of objectives and actions’, whilst emphasising the ‘importance of the full participation of DPOs in decision-making process concerning issues relating to persons with disabilities’.

## **Implementation of the European Disability Strategy 2010-2020**

### **Assessing the impact**

Implementing a comprehensive, long-term policy framework such as the EDS is a challenge *per se*, given its cross-cutting nature and the multitude of measures it encompasses. As an additional layer, many of the proposed EDS measures are meant to support or complement national level action; hence a great deal of their implementation is up to the Member States. These two factors together imply that the impact of the EDS may not be immediately tangible. The external evaluators who conducted the [mid-term review](#) of the EU Disability Action Plan 2003-2010 reached similar conclusions, stating that, even if the action plan had generated a large number of outputs, few conclusions could be drawn about the actual impact on the situation of people with disabilities.<sup>11</sup>

Hosking attests that the EDS has the potential ‘to bring about significant improvement to the social situation of disabled people’. In particular, the ‘increased use of effective accessibility standards [...] and the wide range of soft law initiatives found in the Strategy, may lead to far-reaching changes in the lives of disabled people in many countries’. However, he concedes, ‘those are likely to require a much longer time frame before widespread noticeable improvement occurs’.<sup>12</sup> Similarly, the Commission emphasised that ‘the impact of some [EDS] measures can take a long time to materialise’.<sup>13</sup>

The time factor may apply generally to all kinds of measures, but is particularly obvious in the case of EU directives: once adopted, they require transposition by the Member States; their impact can be assessed only years after they have been applied on the ground, and provided factual evidence is available. With regard to the latter, the Commission admits that evidence regarding the direct impact of EU policies on people with disabilities is limited,<sup>14</sup> even if it sees ‘some indications’ that the measures are having a positive impact.<sup>15</sup>

At the level of individual measures, the negotiation of central EDS initiatives, such as the European Accessibility Act currently ongoing,<sup>16</sup> can be a lengthy process. And, albeit rare in practice, legislative initiatives may even become stalled, as is the case with the horizontal Equal Treatment Directive the Commission proposed back in 2008.<sup>17</sup> Measures which have an imminent and direct effect on citizens with disabilities are rare, but do exist, as

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<sup>10</sup> European Disability Forum, A landmark victory in human rights battle, press release, 5 January 2011.

<sup>11</sup> Quoted after SEC(2010) 1323, p. 13.

<sup>12</sup> Hosking, p. 98.

<sup>13</sup> SEC(2010) 1323, p. 14.

<sup>14</sup> SEC(2010) 1323, p. 13.

<sup>15</sup> SEC(2010) 1323, p. 18. This Commission statement referred to the previous disability strategy, but is certainly of general validity.

<sup>16</sup> For details on the legislative process see Marie Lecerf, EU Legislation in progress: [European Accessibility Act](#), EPRS, June 2017.

<sup>17</sup> 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. This file, another crucial element of the EDS, has been blocked in the Council for years.

the example of the [EU Disability Card](#) shows. This initiative was launched in February 2017 as a pilot amongst a few Member States; it ensures cross-border recognition of the disability status, providing equal access to certain benefits (e.g. transport services and culture/leisure activities).

### **The EDS review process**

According to the Strategy's built-in review clauses, meant to facilitate and monitor the effective implementation of the EDS, a Commission report on the European Disability Strategy 2010-2020 was due by the end of 2013. It was set to cover the progress achieved through the Strategy over the first couple of years, considering the implementation of actions, progress in the Member States and the EU's first report to the UN CRPD Committee on the implementation of the CRPD. This review should provide the findings necessary to update the list of actions for the second half of the Strategy (2016-2020), and, if needed, pave the way for a revision of the EDS. By 2016, a further report would have been due.<sup>18</sup>

This ambitious time horizon was not adhered to. The delay in the Commission's review process was addressed in a number of parliamentary questions<sup>19</sup> to the Commission, and, importantly, also the UN CRPD Committee critically raised the issue in 2015, recommending 'that the European Union carry out its mid-term assessment of the European Disability Strategy 2010-2020 and establish clear guidelines for including the recommendations in the present concluding observations, with clear benchmarks and indicators, in close consultation with persons with disabilities and their representative organizations' (point 11, Concluding Observations).

The Commission had indeed started preparing for the mid-term review in 2013, by commissioning a study to cover the progress achieved in the implementation of both the EDS and the CRPD, but eventually it prioritised the EU's reporting obligations towards the UN CRPD Committee over the EDS review. However, given the aforementioned intertwining of the CRPD and the EDS, the [EU's first CRPD implementation report](#) to the UN may to some extent be seen as a report on the European Disability Strategy 2010-2020.

### **The European Commission's 2017 progress report**

#### **Structure and conclusions of the report**

Eventually, the Commission's first [progress report](#) on the European Disability Strategy 2010-2020 came out in February 2017, covering the first five years of the Strategy. The report followed an open public consultation conducted between December 2015 and March 2016. It consists of summary data on the situation of persons with disabilities in the areas of employment, education and poverty/social exclusion, and a brief assessment of the main achievements in all thematic priority areas.

Moreover, it comprises five annexes:

- the results of the public consultation;
- a detailed annotated table of the state of implementation of the complete list of actions, covering the eight thematic priorities and the four general instruments;
- an annotated table of the state of implementation of the UN recommendations ('Concluding Observations');
- a very brief chapter about contributions to the progress report the Commission had received from other actors, including the EP report on the implementation of the Concluding Observations (resolution adopted on 9 June 2016; rapporteur: Helga Stevens, ECR, Belgium) and the EESC opinion on the same matter (voted on 19 October 2016; rapporteur: Ioannis Vardakastanis); it also mentions the dialogue with disability NGOs;

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<sup>18</sup> COM(2010) 636, p. 11.

<sup>19</sup> E.g. [E-004723-14](#), [E-013569-15](#).



- and finally, a comprehensive list of adopted EU acts which either contain disability-related provisions or refer to matters governed by the CRPD; this list is meant to complement the initial declaration of competence from 2009, which the EU is required to keep up-to-date.<sup>20</sup>

The EDS report reasons that, even though challenges remain, significant progress has been achieved across all eight thematic priorities, however, to a varying extent. Accessibility is highlighted as the theme that has yielded most progress, with legislation adopted on the accessibility of public-sector websites and various modes of transport, and the legislative proposal for a European Accessibility Act the Commission put forward in 2015, to name just a few. At the other end of the scale are employment and education, where progress remained more limited. With regard to the Strategy's general implementing instruments, the report concludes that these 'have been efficiently used and will continue to be in the coming years' (p. 20).

Most importantly, **the progress report concludes that the 'objectives of the 10-year Strategy remain fully relevant'** (p. 2). Consequently, the Commission does not envisage any revision of the Strategy at this point in time. Instead, it will continue to implement the existing Strategy further, endeavouring to complete its implementation by 2020. Thus, calls for a revised EDS by the UN CRPD Committee and by various stakeholders<sup>21</sup> have remained unanswered. A factor that likely favoured the decision to keep the Strategy unchanged was the state of completion of the EDS implementation plan: the progress report marks some 28 % of actions as 'completed' (across all themes and instruments). Hence, the majority of the roughly 150 EDS actions are still ongoing. Moreover, the timing may have played a role: at this point of the Strategy's timeframe, it could appear preferable to put reform efforts directly into the planning of the post-2020 disability framework.

As a matter of interest, disability organisations do not seem to have issued any formal statement to date in reaction to the Commission's progress report.

### A first appraisal

The progress report reiterates the Commission's full commitment towards 'the completion of the Strategy within the time horizon set for 2020'. In its main part, it highlights the key achievements for each thematic area in a very readable manner. Moreover, the report appears very thorough and comprehensive with respect to identifying disability-related legislation and in describing the state of play of implementation. Conversely, the qualitative assessment appears less profound; i.e. the impressively large number of actions listed are barely assessed in terms of significance, effectiveness or impact.

Overall, the following issues can be observed:

- The Commission had initially intended to update the list of actions periodically, and to revise the Strategy mid-term.<sup>22</sup> However, it did not put forward a new list of actions for the second half of the EDS, despite explicit calls from disability organisations.<sup>23</sup> Instead, the Commission decided that 'all relevant actions will be continued in the period 2017-2020' (p. 19);
- The Commission emphasises its commitment to 'the full implementation of the UNCRPD in the European Union', recognising that 'in view of the work still to be achieved, the Concluding Observations ... provide

<sup>20</sup> The EU was required to transmit to the UN CRPD Committee an updated list of competences within a year following the issuance of the Concluding Observations, i.e. by September 2016 (CO point 90 and 17). In its reply to the UN Committee from January 2017, the Commission referred to the very list published as annex to the EDS progress report.

<sup>21</sup> See e.g. Concluding Observations points 8-11; EESC opinion SOC/538 point 1.9 and 1.10; EDF [response](#) to the EDS review, p. 11; [position paper](#) Mental Health Europe. Moreover, in their [opinions](#) on the CRPD implementation Parliament's LIBE and PETI committees called for a revision (Stevens report, pp. 38 and 47).

<sup>22</sup> Cf. SEC(2010) 1324, p. 3 and COM(2010) 636, p. 11. See also Commission answer to EP question [E-004723-14](#): 'The Commission is preparing a first review of the progress made with the implementation of the European Disability Strategy 2010-2020 [...] and its actions. To this end it launched a study in 2013, the results of which will be useful for the updating of the strategy and its initial list of actions covering the period 2010-2015.'

<sup>23</sup> e.g. in response to the Commission's public consultation, where a considerable number of disability organisations stated in a free comment field, 'A new action plan based on the recommendations of the UN Committee should be developed', see Figure 31 in the EDS progress report, p. 46. See also the [response](#) of the EDF ('The Concluding Observations should also be used to develop a new action plan for the remaining years covered by the Strategy 2016-2020.'). p. 4.

indispensable guidance'. However, the report remains rather vague on the remaining gaps between the EDS and the EU's full compliance with its obligations under the CRPD. This would certainly deserve a more detailed analysis;

- A concrete outlook on the future post-2020 framework, which should ideally be based on such gap analysis, appears to be missing; the report just mentions a 'reflection to shape the future EU disability policies' (p. 21)
- The UN CRPD Committee required clear benchmarks and guidelines on how the recommendations from the Concluding Observations would be incorporated into the implementation of the strategy during the second half (2016-2020) of its term (CO points 10 and 11); on this central issue, the Commission makes an unspecific reference to the progress report (p. 129);
- Concerning the Commission's public consultation on the EDS mid-term review, in addition to the 1 500 standard replies, a dozen stakeholders contributed position papers. The report explains that these position papers have not been included in the analysis, since they 'follow a different format than the public consultation questionnaire' (p. 27). However, as these contributions constitute a very relevant input from civil society, it is to be hoped that the Commission will make full use of them in reflections on the future disability framework.

### The public consultation

The public consultation carried out in 2015/2016 triggered over 1 500 replies from civil society (roughly 80 % from individual citizens and 20 % from organisations). This is a much higher response rate than in 2009, when the Commission received 336 replies<sup>24</sup> to its consultation linked to the preparation of the European Disability Strategy 2010-2020.

In the current EDS survey, most respondents found the situation for persons with disabilities continually challenging. In that sense, 61 % of individuals and 48 % of organisations expressed overall dissatisfaction with the achievements during the EDS' first five years. This is not surprising, given the long time it may take until impacts are tangible to persons with disabilities. Moreover, due to the broad spectrum of disabilities people with impairments may not perceive all measures as of equal relevance.

Asked whether, in their view, the EDS has made a difference to persons with disabilities across its eight priority themes during the first five years, respondents' replies were discouraging on all themes. They were particularly negative in the area of employment: 29 % of individuals and 36 % of organisations suggested a 'slight improvement', whilst 57 % of individual respondents and 48 % of organisations saw no improvement at all.

Overall, respondents identified the following five areas as the most challenging for persons with disabilities:

1.	<b>Employment</b>	lack of equal opportunities in the labour market
2.	<b>Transport</b>	lack of equal access to transport
3.	<b>Buildings</b>	lack of accessibility of the built environment
4.	<b>Independent living</b>	difficulties living independently
5.	<b>Support for children</b>	lack of support for parents of children with disabilities

In a separate question relating to challenges children with disabilities face, the three main issues identified referred to inclusive education. In particular, respondents expressed concern about a lack of inclusive education in regular schools, a lack of teachers with disability expertise and a lack of schools with appropriate facilities.

### Europe 2020 results

According to the Commission's report, during the first five years since the EDS' adoption, progress in employment and education remained limited. With regard to the Europe 2020 targets for employment, education and poverty, the indicators evidence a substantial gap between persons with disabilities and their non-disabled peers. Judging

<sup>24</sup> See SEC(2010) 1324, p. 35 and 43.

from the figures provided in the progress report, the employment and education targets are within reach for the overall population, whereas persons with disabilities continue to lag substantially behind.

**Table 1: Gap in employment, education and poverty**

Europe 2020 area	% Persons with disabilities	% Persons without disabilities	EU 2020 target
<b>Employment</b>			
- employment rate	48,7 %	72,5 %	75 %
<b>Education</b>			
- early school leaving rate	22,5 %	11 %	less than 10 %
- completed tertiary education	30 %	42,5 %	at least 40 %
<b>Poverty</b>			
- risk of poverty or social exclusion	29,5 %	21,5 %	lifting at least 20 million people out of poverty

Source: European Commission, EDS progress report 2017, p. 4 (ANED estimates for 2014, based on EU-SILC)

These figures provide a snapshot for 2014. They are not original Eurostat data, but estimates based on Eurostat data (EU-SILC 2014), calculated by [ANED](#) (the Academic Network of European Disability Experts, which has been advising the European Commission since 2008). The ANED data show clearly that, in all three areas, the attainment rates for persons with disabilities are considerably lower than for the general population. Access to the open labour market remains challenging for persons with disabilities.<sup>25</sup> The situation was exacerbated by the economic crisis that had hit many EU Member States hard.

With respect to education, young people with disabilities are particularly prone to leaving school early; and similarly, a much smaller proportion of persons with disabilities in the age group 30-34 have completed tertiary education. And finally, persons with disabilities bear a much higher risk of suffering from poverty or social exclusion than their non-disabled peers.

Eurostat itself publishes annual [monitoring data](#) for the Europe 2020 strategy for the overall population. These data suggest that, in employment and education the EU is gradually getting closer to its Europe 2020 targets. However, with the exception of the poverty-related target,<sup>26</sup> Eurostat does not provide such annual data for persons with disabilities.<sup>27</sup>

## Outlook: towards a post-2020 EU Disability Agenda

The European Commission will soon need to start preparations for the disability policy framework that should succeed the EDS after 2020. Estimates suggest that by then circa 120 million EU citizens will be living with some kind of disability.<sup>28</sup> Since the CRPD is a legally binding instrument, the recommendations set out in the Concluding Observations entail mandatory follow-up. Hence, the UN recommendations will serve as the guiding framework and, to a certain extent, define the priorities of the new disability framework. To this end, a profound analysis

<sup>25</sup> The European Disability Forum has comprehensively broached this issue, in a [resolution](#) on employment of persons with disabilities it adopted on 19 February 2017, in which it called on EU institutions and Member States to take effective action to alleviate the situation.

<sup>26</sup> [Poverty](#) and the risk of poverty, including amongst people with disabilities, is monitored by the annual Eurostat survey EU-SILC (Income and living conditions).

<sup>27</sup> The only Eurostat data available for the Europe 2020 targets for persons with disabilities date from 2011, from the Labour Force Survey (LFS) ad-hoc module on employment of disabled people. However, comparison with the 2014 data from the Commission's progress report proves difficult, since the basis of the two data sets is not identical.

<sup>28</sup> For years, Commission sources and NGOs commonly cite a figure of 80 million, which is substantiated in SEC(2010) 1323 and in COM(2010) 636. This figure is derived from Eurostat surveys, which estimate the share of persons with disabilities amongst the overall population at roughly 16 %. However, due to Europe's demographic ageing, the Commission expects prevalence to rise to 120 million by 2020 for the EU-28. See COM(2015) 615, p.2.

assessing the gap between the EU's obligations under the CRPD and the EDS is needed, in more detail than the annotated overview table of the UN recommendations annexed to the EDS progress report, although that certainly provides good guidance. Moreover, in the light of the EU's Better Regulation Agenda, the future disability agenda will draw on experience from the current EDS. To this end, the Commission plans to carry out an evaluation of the EDS in 2018-2019.<sup>29</sup> This evaluation will likely consider its implementation at EU level as well as in the Member States.

The design of the post-2020 framework will largely rely on input from stakeholders, by means of a formal stakeholder consultation and continuous dialogue with disability organisations. Their views should be taken into due account in the spirit of Article 4(3) CRPD and in respect of disability organisations' motto, *Nothing about us without us*. And finally, the Member States and EU actors will provide input, as will the European Parliament by means of the present implementation report on the EDS. According to the rapporteur's working document, the report is intended to include some reflections on the post-2020 strategy (rapporteur: Helga Stevens, ECR, Belgium).

A number of issues relevant for the future disability framework have already been raised in the context of the review of CRPD implementation, to which several actors contributed substantially – above all the European Parliament, with the resolution ([P8\\_TA\(2016\)0318](#)) it adopted on 7 July 2016 on the previous Stevens report, and the EESC, with the Vardakastanis report ([SOC/538](#)). NGOs have also been active in the process, and submitted shadow reports to the UN CRPD Committee. Moreover, in the course of the EDS review, a dozen disability organisations chose to respond to the Commission's consultation with position papers; these contain issues of relevance for the future EU disability agenda.

Calls for a revision of the Strategy and/or update of the implementation plan (list of actions) were motivated by the Concluding Observations on the one hand, and other factors arising after the launch of the EDS or, in the view of stakeholders, not sufficiently considered in the Strategy on the other hand. Examples include the impact of austerity measures, which had an adverse impact on the situation of persons with disabilities; coordination with the Europe 2020 strategy; and, more recently, discussions relating to the [European Pillar of Social Rights](#). The Commission's [proposal](#) includes a chapter on the inclusion of people with disabilities as one of the pillar's 20 core principles. One NGO also [stressed](#) the increasing importance of digital inclusion and hence suggested that the new strategy 'should acknowledge the evolution of new technologies and its potential for persons with disabilities'.

Finally, both the EESC and the European Disability Forum proposed to declare the year 2021 the 'European Year of Disability Rights', to mark the 10th anniversary of the EU's accession to the CRPD, and at the same time boost the awareness of the new EU disability agenda 2020-2030.

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<sup>29</sup> Lorna Schrefler: Evaluation in the European Commission: a rolling check-list, EPRS. December 2016, p. 106.