STUDY Requested by the PETI committee



The Post-2020 European Disability Strategy



The Post-2020 European Disability Strategy

Abstract

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the PETI Committee, analyses the European Disability Strategy 2010-2020 and makes recommendations regarding the new European Disability Strategy. The study reflects on the design and implementation of the current Strategy, as well as its achievements and shortcomings. The study recommendations in respect of the post-2020 European Disability Strategy. Those recommendations are addressed to the European Parliament, the European Commission and other EU institutions, Member States and key stakeholders, and relate to the groundwork needed to prepare the new Strategy, and the design, content and mechanisms for implementation and enforcement.

This document was requested by the European Parliament's Committee on Petitions.

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LIST OF ABBREVIATIONS

ALMP Active Labour Markets Policies

ANED Academic Network of European Disability Experts

CFR Charter of Fundamental Rights of the European Union

CJEU Court of Justice of the European Union

CRPD United Nations Convention on the Rights of Persons with Disabilities

CSOs Civil Society Organisations

DAP Disability Action Plan 2003-2010

DG Directorate General

DG DEVCO DG for International Cooperation and Development

DG EMPL Directorate General for Employment, Social Affairs and Inclusion

DG JUST Directorate General for Justice and Consumers

DHLG Disability High-Level Group

DPOs Disabled People's Organisations

EAA European Accessibility Act

EASPD European Association of Service Providers for Persons with Disabilities

EC European Community

EDF European Disability Forum

EES European Employment Strategy

ENIL European Network on Independent Living

EPAPSE European Platform against Poverty and Social Exclusion

European Platform for Rehabilitation

EPSO European Personnel Selection Office

IPOL | Policy Department for Citizens' Rights and Constitutional Affairs

ESF European Social Fund

ET 2020 Education and Training 2020

ETUCE European Trade Union Committee for Education

EU European Union

EUD European Union of the Deaf

FP Framework Programme

GDPR General Data Protection Regulation

Information and communications technologies

LLP Lifelong Learning Programme

MEP Member of the European Parliament

MFF Multiannual Financial Framework

MHE Mental Health Europe

NGOs Non-governmental organisations

NRP National Reform Programmes

OMC Open Method of Coordination

OP-CRPD Optional Protocol to the CRPD

SDGs Sustainable Development Goals

SIF Structural and Investment Funds

Social Pillar European Pillar of Social Rights

SRDF Structural and Rural Development Fund

TEU Treaty on European Union

TFEU Treaty on the Functioning of the European Union

UN United Nations

UN

United Nations Committee on the Rights of Persons with Disabilities

Committee

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EXECUTIVE SUMMARY

The European Disability Strategy 2010-2020 was adopted in November 2010. It was designed to support the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD or UN Convention) at EU and Member State level, and to mainstream disability across a wide range of policy areas at EU level. The 2010-2020 Strategy is being reviewed or evaluated by several EU institutions with a view to developing a post-2020 European Disability Strategy. The new Strategy is being developed against the background of the COVID-19 pandemic, which is having significant social and economic impacts on the lives of persons with disabilities and their families. In that regard, the European Parliament, in its Resolution of 18 June 2020, has called on the Commission to 'prepare an evaluation of the challenges and rights violations experienced by persons with disabilities during the COVID-19 pandemic, the measures adopted by Member States in response to the pandemic, and the gaps and shortcomings in legislation', and 'to propose relevant and specific recovery and mitigation measures in the Post-2020 Disability Strategy to overcome such shortcomings and to prevent them in the future'.

This study analyses the design of the European Disability Strategy 2010-2020, as well as the measures that have been adopted to ensure its implementation, and puts forward recommendations regarding the design and implementation of the European Disability Strategy post-2020. Chapter 1 of this study introduces the contextual background, methodology and limitations of this study, while Chapter 2 explores the evolution of EU disability policy, the content of the current Strategy and the relevant provisions of the CRPD. Chapter 2 also reflects on the views of key actors, including the European Parliament, other EU institutions and civil society stakeholders, on the design of the 2010-2020 Strategy. Chapter 3 analyses the ways in which the current Strategy has been implemented at EU level and examines the influence that it has had to date on EU action. It also reflects on the main achievements of the current Strategy and the gaps that still need to be filled in light of the obligations of the EU as a Party to the CRPD. Chapter 4 presents the proposals and recommendations of key actors on the design and implementation of the European Disability Strategy post-2020, while chapter 5 outlines the recommendations of the authors of this study.

Main Findings and Recommendations for Action

This study presents a wide range of findings and recommendations, with a focus on the scope and content of the European Disability Strategy post-2020. This study also reflects on the implementation and monitoring of the new Strategy.

The European Disability Strategy 2010-2020 has contributed to a human rights model of disability being reflected in several EU legislative enactments and in policy discourse at EU level. The current Strategy has also supported the adoption of many legislative, standardisation and financial instruments at EU level. One field which has witnessed particularly notable developments is that of accessibility, where important initiatives, such as the European Accessibility Act, have been put in place.

This study recommends that the existing priority areas of action should be maintained in the new Strategy, but that they be tailored, in particular, to the current COVID-19 pandemic. A new priority area on Citizenship rights should be added to the European Disability Strategy post-2020. Furthermore, it is essential that the priority areas and lines of action in the new Strategy are aligned more clearly with

CRPD rights and obligations. The new Strategy should be accompanied by a 'revised declaration of competences' in light of the CRPD, to ensure complementarity between the actions adopted by the EU and those taken by the Member States in implementing the CRPD, which is a mixed agreement under EU law. To address gaps between the CRPD and existing EU law obligations, the new Strategy should also include a plan and timetable for substantive revisions of existing EU law.

A shortcoming of the 2010-2020 Strategy was the lack of a clear baseline data set. It is essential that such a data set be established with regard to the Strategy post-2020, so that progress can be monitored. Data should be collected based on disaggregated qualitative and quantitative indicators on disability and be CRPD-compliant. It is also essential that a first list of actions be published together with the new Strategy.

This research has revealed that there is scope for greater complementarity between the European Disability Strategy post-2020 and other EU instruments and programmes, such as the EU's mechanism on economic governance and the European Semester. It has also demonstrated that EU instruments, such as the Open Method of Coordination, could be utilised to help achieve the objectives of the European Disability Strategy post-2020. Greater alignment between the post-2020 Strategy and disability strategies at Member State level should also be ensured. In that regard, the new Strategy can support not only the adoption of national strategies through structures such as the European Semester process, but can also address the coordination, dissemination and monitoring of national disability strategies.

In terms of implementing the European Disability Strategy post-2020, it is essential that appropriate infrastructure is put in place at EU and Member State level. At EU level, each Directorate-General of the Commission, and all other EU institutions and agencies, should establish disability focal points with responsibility for implementing the new Strategy, and ultimately the CRPD. While there have been positive trends with regard to the mainstreaming of disability considerations across a broad range of policy areas during the course the 2010-2020 Strategy, the establishment of focal points would facilitate the further mainstreaming of disability across areas of EU action where disability issues have not yet been mainstreamed, such as consumer policy. This study also recommends that the European Commission, Parliament and Council establish an inter-institutional coordination mechanism, which should be composed of all disability focal points. An implementation plan, consisting of a second list of actions, for the European Disability Strategy post-2020 should be published by the Commission after the mid-term evaluation of the new Strategy. The mid-term review should ensure that the priorities and first list of actions are re-evaluated and amended where necessary. It is also important that the Commission guarantee that evaluations of instruments linked to the post-2020 Strategy address the impact of those instruments on people with disabilities, and pay attention to assessing compliance by Member States with EU legislation in the field of accessibility, in particular.

Ensuring an adequate budget is also essential to guarantee the effective implementation of the European Disability Strategy post-2020. In that regard, the Council should ensure, within the context of the Multiannual Financial Framework, that sufficient funding is put in place for implementation in full of the new Strategy. In addition, a ring-fenced budget to support disability accessibility should be ensured with regard to all funding programmes put in place by the Commission. A specific budget line should be ensured to enable full and effective participation and inclusion of people with disabilities,

through their representative organisations, in an accessible forum for structured dialogue related to the design and implementation and monitoring of the European Disability Strategy post-2020.

1. INTRODUCING THE EUROPEAN DISABILITY STRATEGY: CONTEXT AND BACKGROUND

KEY FINDINGS

- The European Disability Strategy 2010-2020 was designed as a comprehensive plan to mainstream disability across various areas of EU law and policy, and to implement the requirements of the United Nations Convention on the Rights of Persons with Disabilities.
- The Strategy has the overall aim to empower people with disabilities so that they can enjoy their full rights, and benefit fully from participating in society and in the European economy.
- In spite of the initiatives that followed the adoption of the current Disability Strategy, a mid-term evaluation showed that individuals with disabilities continued to encounter many challenges related to accessibility, participation in employment and mobility within the EU, and that they continued to encounter discrimination.
- The European Parliament adopted a resolution on the implementation of the European Disability Strategy 2010-2020 in 2017, in which it called for a 'comprehensive revision' of the Strategy.
- The current European Disability Strategy is in its last year of implementation, and therefore it is being assessed or evaluated by various EU institutions.
- The final evaluation of the European Disability Strategy 2010-2020 is being carried out by ICF, on behalf of the European Commission. That evaluation is intended to assess the effectiveness, efficiency, relevance, coherence and added value of the Strategy, and also to provide conclusions and recommendations to support the development of a new Strategy, which will be in place post-2020.
- The European Parliament, and notably its Committee on Employment, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Petitions, are now discussing and making proposals regarding the new European Disability Strategy, which will apply post-2020. The European Parliament has discussed and adopted, on 18 June 2020, a Resolution drafted by the Committee on Employment, on the European Disability Strategy post-2020. Furthermore, on 8 July 2020, the European Parliament adopted a Resolution, drafted by the Committee on Petitions, on the rights of persons with intellectual disabilities in the COVID-19 crisis.
- This study, which is carried out on behalf of the European Parliament's Committee on Petitions, is intended to assess the impact, achievements and shortcomings in the design and implementation of the current Disability Strategy, and to propose recommendations for the European Disability Strategy post-2020, in light of the obligations contained in the CRPD.

1.1 Introduction

In December 2010, the European Community (now European Union) concluded the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD or (UN) Convention)¹ as a regional integration organisation, thereby becoming a Party to a UN human rights treaty for the first time.² The CRPD came into force for the EU a month later, in January 2011. In addition to its conclusion by the EU, the UN Convention has been ratified by all EU Member States. However, the EU has not yet ratified the Optional Protocol to the CRPD (OP-CRPD).³

It is well established that the CRPD forms an 'integral part' of the EU's legal order. The UN Convention has acquired a sub-constitutional status, situated below the EU Treaties and the Charter of Fundamental Rights of the European Union (Charter or CFR), but above EU secondary legislation. The conclusion of the CRPD represented a milestone in the development of EU disability law and policy, and is deemed to be 'the benchmark against which EU disability initiatives must be measured', including policy initiatives.

The current European Disability Strategy 2010-2020 (Strategy),⁷ adopted in November 2010 (before the EU concluded the CRPD), is a wide-ranging instrument that foresees mainstreaming of disability across various policy areas, complementing the legal framework that is in force at EU level. The Strategy has the overall aim to 'empower people with disabilities so that they can enjoy their full rights, and benefit fully from participating in society and in the European economy, notably through the Single market'.⁸

¹ UN Convention on the Rights of Persons with Disabilities, 13 December 2006, in force 03 May 2008, UN Doc. A/RES/61/106, Annex I.

² See Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L 23/35.

³ The UN Committee on the Rights of Persons with Disabilities expressed concerns in this respect and has called on the European Union (EU) to ratify the Optional Protocol to the CRPD (OP-CRPD): See UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, paras. 6-7. Likewise, the European Parliament's Committee on Petitions has also called on the EU to ratify the OP-CRPD: See European Parliament, Report of 30 October 2017 on implementation of the European Disability (2017/2127(INI), Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the UN Convention on the Rights of Persons with Disabilities with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) (Rapporteur: Wikström), 11 September 2017, para. available http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0203&language=EN.

⁴ Joined Cases C-335/11 and C-337/11, HK Danmark, acting on behalf of Jette Ring v Dansk almennyttigt Boligselskab (C-335/11) and HK Danmark, acting on behalf of Lone Skouboe Werge v Dansk Arbejdsgiverforening, acting on behalf of Pro Display A/S (C-337/11) (HK Danmark), ECLI:EU:C:2013:222, para. 30. See, among others, Case C-363/12, Z. v A Government department, The Board of management of a community school (C-363/12), ECLI:EU:C:2014:159, para. 73.

⁵ See generally Ferri, D., 'The Conclusion of the UN Convention on the Rights of Persons with Disabilities by the EU/EC: A Constitutional Perspective', in Waddington, L., and Quinn, G. (eds.) *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2010, Vol. 2, pp. 47-71.

⁶ Favalli. S. and Ferri, D., 'Defining Disability in the European Union Non-discrimination Legislation: Judicial Activism and Legislative Restraints', European Public Law, Vol. 22, No 3, 2016, pp. 541-567, p. 553.

⁷ European Commission, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final (European Disability Strategy 2010-2020), Brussels, 15 November 2010, available at: https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0636:FIN:en:PDF. See also European Commission, European Disability Strategy 2010-2020 – Frequently Asked Questions, MEMO/10/578, Brussels, 15 November 2010, available at: https://ec.europa.eu/commission/presscorner/detail/en/MEMO 10 578. For useful background information, see European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, Brussels, July 2017, PE 603.252, available at: https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS BRI(2017)603252.

⁸ European Disability Strategy 2010-2020, p. 4.

The priority areas in the Strategy – accessibility, participation, non-discrimination and equality, employment, education and training, health, social protection and external action – and three of the four general sets of implementation measures prescribed by the Strategy – awareness-raising; financial support; statistics, data collection and monitoring; and mechanisms required by the UN Convention – are intrinsically linked to the provisions of the CRPD. The Strategy has been described as 'a comprehensive plan to implement the requirements of the [UN] Convention'. It 'identifies actions at EU level to supplement national ones, and it determines the mechanisms needed to implement the UN Convention at EU level, including inside the EU institutions'. In

The European Disability Strategy 2010-2020 is now in its final year of implementation, and the EU institutions are evaluating and assessing the achievements of the Strategy, and looking to the development of a new Strategy post-2020. The European Commission announced in January 2020 that the new Strategy will be in place in 2021.¹¹

The European Economic and Social Committee initially welcomed the current Strategy as 'an active policy instrument' to implement the CRPD and the commitments of the EU arising from conclusion of the UN Convention. However, in a 2016 Opinion, the European Parliament's Committee on Petitions called for a 'comprehensive revision' of the Strategy. The European Parliament has also voiced its concerns in relation to the EU's 'lack of a clear strategy for implementing the UN Convention', and, in a recent 2020 Resolution, stated that 'whereas the European Disability Strategy 2010-2020 has served as a framework for policy and legislative proposals to implement the CRPD both within the EU and beyond', that the current Strategy fails to provide a broad framework for the implementation of the CRPD across all EU institutions and lacked funding for its implementation.

⁹ See generally Charitakis, S., Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2018, p. 58.

¹⁰ European Disability Strategy 2010-2020, p. 4.

See: https://www.europarl.europa.eu/news/en/headlines/society/20200604STO80506/parliament-calls-for-a-new-ambitious-eu-disability-strategy.

¹² European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.1, available at: https://www.eesc.europa.eu/en/ourwork/opinions-information-reports/opinions/european-disability-strategy-2010-2020.

¹³ European Parliament, Report of 9 June 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), Opinion of the Committee on Petitions of 29 April 2016 for the Committee on Employment and Social Affairs on the implementation of the UN Convention on the Rights of Persons with Disabilities with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), (Rapporteur: Ferragut), para. 18, available at: http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0203&language=EN.

¹⁴ See European Parliament, Report on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), 09 June 2016, Motion for a Parliament Resolution, para. 20, available at: http://www.europarl.europa.eu/doceo/document/A-8-2016-0203_EN.html.

¹⁵ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. V, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

¹⁶ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. AB.

¹⁷ See European Disability Forum (EDF), Answers to the List of Issues on the EU Report to the UN Committee on the Rights of Persons with Disabilities, pp. 1-2, available at: https://tbinternet.ohchr.org/layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=982&Lang=en.

The United Nations Committee on the Rights of Persons with Disabilities (UN Committee), in its Concluding Observations issued to the EU in 2015, encouraged the EU institutions to carry out the midterm assessment of the 2010-2020 Strategy and establish clear guidelines for addressing its recommendations in the Strategy, with clear benchmarks and indicators, in close consultation with persons with disabilities and Disabled People's Organisations (DPOs).¹⁸

The European Commission carried out an open, public consultation between 31 July-13 November 2019 (following a closed consultation with DPOs earlier in 2019), in order to assist it in reflecting on a new Strategy. It also carried out a mid-term evaluation exercise in 2017, which showed that people with disabilities continued to encounter many challenges, including challenges related to accessibility, discrimination, participation in employment and mobility within the EU.¹⁹ Nonetheless, the Commission expressed the view in its 2017 Progress Report that the objectives set out in the eight areas of the Strategy in 2010 '[...] remain valid, as well as the instruments underpinning them'.²⁰ The Commission is expected to publish a final evaluation report on the Strategy later this year.

The European Parliament, and notably its Employment Committee, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Petitions, are now discussing and proposing recommendations for the new Strategy, in light of the obligations arising from the CRPD. The European Parliament has discussed and adopted, on 18 June 2020, a Resolution drafted by the Committee on Employment, on the European Disability Strategy post-2020.²¹ Moreover, on 8 July 2020, the Parliament adopted a Resolution, drafted by the Committee on Petitions, on the rights of persons with intellectual disabilities in the COVID-19 crisis.²² It is furthermore noteworthy that the present report was finalised in the midst of the COVID-19 pandemic, and as Commissioner Dalli highlighted recently, the EU's implementation of the CRPD 'has been put to the test and becomes even more relevant in this crisis situation'.²³

Against this background, the overall aim of this study is to analyse the current status of the European Disability Strategy 2010-2020 in terms of its design and implementation, to reflect on the achievements and shortcomings associated with it, as well as the impact that it has had to date. Most importantly, this study has the objective of formulating recommendations in respect of the new European Disability Strategy post-2020, taking into account (to the extent feasible at the time of writing) the challenges and issues relating to disability that have arisen from the COVID-19 pandemic. The recommendations in this study are addressed to the European Parliament, the European Commission, other EU

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¹⁸ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 11.

¹⁹ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, available at: https://ec.europa.eu/social/main.jsp?catId=1484&langId=en.

²⁰ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 19.

²¹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

²² European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183 EN.html.

²³ See the Speech by Commissioner Dalli on the Impact of the Coronavirus Outbreak on Persons with Disabilities, available at: https://ec.europa.eu/commission/commissioners/2019-2024/dalli_en.

institutions, the Member States and key stakeholders, pertaining, among others, to the design of the post-2020 Strategy, its content and relevant mechanisms for implementation.

1.2 Methodology and Limitations of the Study

This study uses desk-based, doctrinal research methods. Doctrinal research can be described as **involving 'rigorous a**nalysis and creative synthesis, the making of connections between seemingly disparate doctrinal strands, and the challenge of extracting general principles from an inchoate mass of primary materials'.²⁴

The legal and policy analysis conducted in this study is based on both primary legal sources (at EU and international level), as well as on secondary, soft law policy instruments and related documents. It also draws on documents drafted by representative organisations of people with disabilities related to EU disability policy, and more specifically to the current and new European Disability Strategies. In analysing the EU's obligations under the CPRD, the study pays particular attention to the Concluding Observations issued by the UN Committee on the Rights of Persons with Disabilities to the EU in 2015.

In terms of limitations, it is important to note that this study only takes into account developments up until 1 June 2020. It is also worth noting that the study does not entail an analysis of action taken at Member State level which can be related to the European Disability Strategy 2010-2020.

1.3 Structure of the Study

Following this introductory chapter, the next chapter of the study (chapter 2) discusses, in section 2.1, the EU institutional architecture on disability, the development and content of EU disability policy, as well as the key areas of the CRPD that are of relevance to the European Disability Strategy 2010-2020 and the new Strategy. It also addresses the content of the current Strategy in section 2.1. Section 2.2 sets out the reflections of key actors, including the European Parliament, other EU institutions and stakeholders from civil society, on the design of the European Disability Strategy 2010-2020. Chapter 3 of the study explores the current state of implementation of the European Disability Strategy 2010-2020 on the basis of data and input from relevant experts from academia, key stakeholders, the European Parliament and other EU institutions. In section 3.1, the public consultation on the European Disability Strategy 2010-2020 is discussed. In addition, an overview is provided of the European Commission's 2017 Progress Report on the implementation of the European Disability Strategy 2010-2020²⁵ (the mid-term evaluation), as well as the views and recommendations of the European Parliament, other EU institutions and relevant stakeholders on the mid-term evaluation. In section 3.2, the study reflects on the impact that the European Disability Strategy 2010-2020 has had to date. Section 3.3 explores the achievements and shortcomings of the European Disability Strategy 2010-2020, both in terms of its design and implementation. Chapter 4 of the study presents the proposals and recommendations of key actors on the design and implementation of the European Disability

²⁴ Council of Australian Law Deans, 'Statement on the Nature of Legal Research', October 2005, p. 3, available at: https://cald.asn.au/wp-content/uploads/2017/11/cald-statement-on-the-nature-of-legal-research-20051.pdf.

²⁵ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, available at: https://ec.europa.eu/social/main.jsp?catId=1484&langId=en.

Strategy post-2020. In that regard, it examines the requests and recommendations made by the EU institutions, academic scholars, key stakeholders from civil society and by citizens through petitions to the European Parliament. In the concluding chapter 5, the key recommendations of the authors of this study are presented. Those recommendations focus on the scope and content of the post-2020 Strategy, embedding it within the EU's infrastructure and that of the Member States, and implementation and monitoring of the new Strategy.

2. THE ADOPTION AND DESIGN OF THE EUROPEAN DISABILITY STRATEGY 2010-2020

KEY FINDINGS

- Early EU initiatives in the area of disability policy mainly took the form of non-binding instruments designed to enhance the exchange of information between Member States, primarily in the fields of employment and vocational training.
- The entry into force of the Treaty of Amsterdam was the major turning point in EU action on disability, as it conferred legislative competence on the EU institutions to combat disability discrimination.
- The CRPD is the benchmark for European disability policy.
- The priority areas of the 2010-2020 Strategy accessibility, participation, non-discrimination and equality, employment, education and training, health, social protection and external action and three of the four general sets of implementation measures prescribed by the 2010-2020 Strategy awareness-raising; financial support; and statistics, data collection and monitoring; and monitoring mechanisms required by the Convention are mirrored in the provisions of the CRPD.
- The priority areas in the current Disability Strategy span various competences of the EU and the Member States.
- The European Disability Strategy 2010-2020 provided that the EU would (among other things) adopt legislative and other instruments, such as standardisation mandates; adopt market-based strategies; support Member State action in a range of fields; as well as take awareness-raising and educational measures.
- The implementation of the European Disability Strategy 2010-2020 and the CRPD have been facilitated by the institutional infrastructure that is in place at EU level, including the EU Monitoring Framework for the CRPD.
- The current European Disability Strategy has been described as 'an active policy instrument'
 to implement the CRPD and the commitments of the EU arising from the conclusion of the
 UN Convention. However, key actors have criticised a number of aspects related to the
 design of the current Strategy.

This chapter discusses the evolution of EU policy on disability, up to the current European Disability Strategy. It also sets out the reflections of key actors, such as the European Parliament, the European Economic and Social Committee, and various EU-level DPOs, on the design of the current Strategy.

2.1 European Union Policy on Disability

This section discusses EU policy on disability. In that regard, sub-section 2.1.1 examines the evolution of EU disability policy from the 1970s up to the present day, while sub-section 2.1.2 addresses the institutional architecture on disability policy at EU level. Sub-section 2.1.3 examines the areas of the CRPD that are particularly relevant to both the current and new Strategy, while sub-section 2.1.4 presents the content of the current European Disability Strategy 2010-2020.

2.1.1 The Evolution of European Union Policy on Disability

The earliest European actions in the field of disability can be traced back to the 1970s.²⁶ These initiatives primarily took the form of soft law instruments designed to enhance the exchange of information between Member States, and were confined to the areas of employment and vocational training.²⁷ Since 1983, the European Commission has supported several action programmes designed to promote networking among rehabilitation and education professionals.²⁸ The third disability action programme (HELIOS II)²⁹ of the European Commission, in place between 1993-1996, was deemed to mark an 'important shift in the Commission's approach'.³⁰ Its aim was to promote equal opportunities for, and the integration of, people with disabilities.

It has been observed by Waddington that, from the early 1970s to the mid-1990s, the various action programmes of the European Community were the 'mainstay of European Community disability policy'.³¹ In that period, however, European action was 'still focused on stimulating a policy debate rather than on laying down concrete actions on disability',³² and the Community action programmes

²⁶ For a more detailed examination of the evolution of the European Community (EC)/EU's competences with regard to disability, and the development of the EC/EU's disability policy, see Waddington, L., From Rome to Nice in a Wheelchair, The Development of a European Disability Policy, Europa Law Publishing, Gronigen, 2006. See also Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98.

²⁷ See, for instance, Council Resolution of 27 June 1974 establishing the Initial Community Action Programme for the Vocational Rehabilitation of Handicapped Persons (1974-1979) [1974] OJ C 80/30. For a comprehensive analysis of the development of EU disability law and policy, see Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, pp. 299-304.

²⁸ First Community Action Programme on the Social Integration of Handicapped People (1983-1988) [1981] OJ C 347/1; HELIOS I Community Action Programme for Disabled People (1988-1991) [1988] OJ L 104/38; Council Decision 93/136/EEC of 25 February 1993 on HELIOS II Community Action Programme to assist Disabled People (1993-1996) [1993] OJ L 56/30.

²⁹ HELIOS II Community Action Programme to assist Disabled People (1993-1996) [1993] OJ L 56/30.

³⁰ European Commission, Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, SEC(2010) 1323 final, Brussels, 15 November 2010, p. 8, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010SC1323&qid=1576888351724&from=EN.

³¹ Waddington, L., 'From Rome to Nice in a Wheelchair: The Development of a European Disability Policy', available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1026549, p. 4.

³² Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, p. 300.

were based on the individual model of disability,³³ which perceives the inability of people with disabilities to participate in society as the 'inevitable result of their own impairment rather than as a consequence of any disabling and discriminatory barriers in society'.³⁴

In the course of the 1990s, several developments at the UN level, including the adoption of the UN Standard Rules for the Equalization on Opportunities for Persons with Disabilities,³⁵ inspired the first comprehensive EC policy: the New Community Disability Strategy 1996 (1996 Strategy).³⁶ The 1996 Strategy was based on the social model of disability, and was clearly underpinned by an equal opportunities approach. The 1996 Strategy was perceived as forming 'the essence of the rights-based approach to disability'.³⁷ The task of the European institutions, as formulated in the 1996 Strategy, was mainstreaming of disability, which:

entails the formulation of policy to facilitate the full participation and involvement of people with disabilities and other processes, while respecting personal choice. It also means that the relevant issues should no longer be considered separately from the mainstream policy-making apparatus, but should be clearly seen as an integral element.³⁸

In the 1996 Strategy, the European Commission considered that it was 'essential' for the (then) European Community (EC) to 'clarify and confirm its overall disability strategy, the core of which should be a shared commitment by all Member States to promote equal opportunities, to eliminate discrimination in this field and to recognise the rights of people with disabilities'.³⁹ However, the 1996 Strategy recognised that the Member States had the primary responsibility for actions aimed at eliminating exclusion and discrimination based on disability, and that policies would vary within national, regional or local contexts.⁴⁰

The major change in European disability policy dates back to 1999, with the entry into force of the Treaty of Amsterdam, which conferred competence on the EC (now the EU) to combat disability discrimination, by virtue of Article 13 of the Treaty establishing the EC (now Article 19 Treaty on the

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³³ Waddington, L., 'From Rome to Nice in a Wheelchair: The Development of a European Disability Policy', available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1026549, p. 16.

³⁴ Broderick, A., The Long and Winding Road to Equality and Inclusion for Persons with Disabilities: The United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2015, p. 1.

³⁵ UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities, 20 December 1993, A/RES/48/96, available at: https://www.un.org/development/desa/disabilities/standard-rules-on-the-equalization-of-opportunities-for-persons-with-disabilities.html.

³⁶ European Commission, Communication of the Commission on Equality of Opportunity for People with Disabilities: A New European Community Disability Strategy, COM(96) 406 final, Brussels, 30 July 1996, available at: https://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:51996DC0406&from=FR. See also Quinn, G. and Flynn, E., 'Transatlantic Borrowings: The Past and Future of EU Non-discrimination Law and Policy on the Ground of Disability', *American Journal of Comparative Law*, Vol. 60, 2012, pp. 23-48, p. 23.

³⁷ European Commission, Communication of the Commission on Equality of Opportunity for People with Disabilities: A New European Community Disability Strategy, COM(96) 406 final, Brussels, 30 July 1996, para. 18.

³⁸ Ibid. para. 19.

³⁹ Ibid. para. 24.

⁴⁰ Ibid. para. 25.

Functioning of the European Union – TFEU).⁴¹ Article 19 TFEU remains the main provision that confers legislative competence on the EU in relation to combating discrimination on the ground of disability, among others. In addition, Article 10 TFEU, a horizontal article that applies across all areas of Union action, requires that, 'in defining and implementing its policies and activities', the EU shall aim to combat disability discrimination. These provisions of the TFEU complement Article 2 of the Treaty on European Union (TEU) – which sets out the founding EU values of, among others, respect for human dignity, human rights and equality; and Article 3(3) TEU – which affirms that the EU internal market shall 'combat social exclusion and discrimination'.

Further to the constitutional changes described above, Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (Employment Equality Directive)⁴² was the first legislative intervention designed to address discrimination on the ground of disability and still constitutes the cornerstone of EU disability law. More recent EU legislation in other areas – such as Directive (EU) 2016/2102 on the accessibility of websites and mobile applications of public sector bodies;⁴³ and the Directive on the accessibility requirements for products and services, otherwise known as the European Accessibility Act (EAA)⁴⁴ – complement the EU non-discrimination and equality law framework. The recently revised Regulations on Structural and Investment Funds (SIF)⁴⁵ are also very relevant in relation to the accessibility of physical infrastructures and with regard to broader accessibility considerations. They aim, among other things, to promote a transition to community-based living for people with disabilities.⁴⁶

Following the constitutional and legislative developments described above, the CFR was proclaimed in 2000 – before the adoption of the current Disability Strategy. The Charter gave a renewed focus to the rights of people with disabilities. The most notable provisions of the Charter related to disability are: Article 20, which provides for the right to equality before the law; Article 21(1), which contains an all-embracing prohibition of discrimination; and Article 26, setting out the right of persons with

⁴¹ The Treaty of Amsterdam also included a Declaration stating that the EU institutions must take account of the needs of persons with disabilities in drawing up measures under the former Article 95 EC (now Article 114 Treaty on the Functioning of the European Union – TFEU).

⁴² Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.

⁴³ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L 327/1.

⁴⁴ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services [2019] OJ L 151/70 (European Accessibility Act - EAA). On the EAA, see Broderick, A., 'The European Accessibility Act: A Paradigm of Inclusive Digital Equality for Persons with Disabilities?', in Ricci, C. (ed.), *Building an Inclusive Digital Society for Persons with Disabilities: New Challenges and Future Potentials*, Pavia University Press, Pavia, 2020, pp. 19-38. See also Council Directive 2010/13/EU of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) [2010] OJ L 95/1. On the Audiovisual Media Services Directive, see Waddington, L., 'Regulating E-accessibility and Digital Equality in Europe from a Multi-level Perspective", in Ricci, C. (ed.), *Building an Inclusive Society for Persons with Disabilities. New Challenges and Future Potentials in the Digital Era*, Pavia University Press, Pavia, 2020. pp. 3-18.

⁴⁵ See, for instance, Regulation (EU) 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006. The regulations can be found at: http://ec.europa.eu/regional_policy/en/information/legislation/regulations/.

⁴⁶ See Community Living for Europe, The European Structural & Investment Funds Regulations, Mechanics and Relevant Actors, p. 2: 'The legal framework for ensuring the transition from institutional care to community based living through the use of the funds is comprised of the [Common Provision Regulations (CPR)] and the Fund Specific Regulations for the European Social Fund (ESF) and the European Regional Development Fund (ERDF)'. The document can be found at: https://communitylivingforEurope.org/policy-briefing-notes/.

disabilities to benefit from measures to ensure their independence, social and occupational integration and participation in the life of the community.

The constitutional developments brought about by the Treaty of Amsterdam and the proclamation of the CFR 'provoked a major shift at the EU policy level', according to Broderick and Ferri. ⁴⁷ In 2003, the EU Disability Action Plan 2003-2010 (DAP) ⁴⁸ was adopted. In a similar vein to the 1996 Strategy, the DAP was informed by the social model of disability, and it aimed to mainstream disability issues across all EU policies; however, unlike the 1996 Strategy, it identified specific areas where the EU would take action for each two-year period. The DAP covered the period 2003-2010 and had the following policy priorities: in 2004-2005, it focused on employment; ⁴⁹ in 2006-2007, it focused on active inclusion; ⁵⁰ and, in 2008-2009, it focused on accessibility. ⁵¹ Notably, these are still core areas of EU action under the European Disability Strategy 2010-2020.

The developments that occurred in the 1990s and in the 2000s led to greater mainstreaming of disability in EU law and policy, and to the emergence of disability law as 'a distinct and dynamic' field of EU action.⁵² Disability issues are now mentioned in several policy documents at EU level, such as the Education and Training 2020 (ET 2020) framework,⁵³ and the EU's Strategic Engagement for Gender Equality,⁵⁴ among others.

The Europe 2020 Strategy, a key EU policy instrument, is also of relevance to disability policy.⁵⁵ It established three 'mutually reinforcing' priorities for the period 2010 to 2020, namely: i) smart growth – developing an economy based on knowledge and innovation; ii) sustainable growth – promoting a more resource-efficient, greener and more competitive economy; and iii) inclusive growth – fostering a high-employment economy, and delivering social and territorial cohesion. To reach its five 'headline targets' – in the fields of employment, research and development, the environment, education and coordinated action of the EU Member States – seven 'flagship initiatives' were formulated. The rights of people with disabilities are explicitly addressed in some of those, such as in the European Platform

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⁴⁷ Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, p. 303.

⁴⁸ European Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Equal Opportunities for People with Disabilities: A European Action Plan, COM(2003) 650 final, Brussels, 30 October 2003, available at: https://eurlex.europa.eu/LexUriServ.do?uri=COM:2003:0650:FIN:EN:PDF.

⁴⁹ European Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Equal Opportunities for People with Disabilities: A European Action Plan, COM(2003) 650 final, Brussels, 30 October 2003.

⁵⁰ European Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Situation of Disabled People in the Enlarged European Union: The European Action Plan 2006-2007', COM(2005) 604 final, Brussels, 28 November 2005, available at: <a href="https://www.europarl.europa.eu/meetdocs/2004/2009/documents/com/com/com/com/2005)0604/com/com/2005)0604/en.p.df.

⁵¹ European Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, 'Situation of Disabled People in the European Union: The European Action Plan 2008-2009', COM(2007) 738 final, Brussels 26 November 2007, available at: https://eurlex.europa.eu/LexUriServ.do?uri=COM:2007:0738:FIN:EN:PDF.

⁵² Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, p. 2.

⁵³ See: https://ec.europa.eu/education/policies/european-policy-cooperation/et2020-framework en.

⁵⁴ European Commission, Strategic Engagement for Gender Equality 2019-2020, Publications Office of the EU, 2016, available at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en.

⁵⁵ See: https://ec.europa.eu/eurostat/web/europe-2020-indicators.

against Poverty and Social Exclusion (EPAPSE),⁵⁶ which aims to boost social inclusion and fight poverty, among others, through the design and implementation of programmes to promote social innovation for persons with disabilities, and through defining and implementing measures that address their specific needs. It is of note that the Europe 2020 Strategy refers to the European Disability Strategy 2010-2020, and the latter Strategy seeks to contribute to the Europe 2020 targets on employment, education and poverty reduction.

The European Semester, established in 2010, is a soft law, policy process designed to monitor implementation of the Europe 2020 Strategy. The European Semester has been described by Priestley as 'the EU's strategic economic policy co-ordination mechanism'.⁵⁷ It essentially 'addresses the public finances of the Member States and includes a strong focus on employment policies as well as a social dimension'.⁵⁸ In recent years, increasing attention has been paid in the European Semester to disability considerations.⁵⁹

In November 2017, the European Pillar of Social Rights (Social Pillar)⁶⁰ was proclaimed – thus, after the adoption of the current Disability Strategy. The implementation of the Social Pillar in the Member States is monitored by means of the Social Scoreboard,⁶¹ which feeds into the European Semester, although the Scoreboard does not mention disability or people with disabilities.

The Social Pillar is a soft law instrument that lays down twenty principles that are 'essential for fair and well-functioning labour markets and welfare systems in 21st century Europe'. Lt reaffirms some of the rights in the Charter and in the EU Treaties, and it is intended to stimulate debate on the social dimension of Europe, providing 'a framework of reference for policy monitoring in a number of key areas'. Its overarching themes – equal opportunities and access to the labour market, fair working conditions and social protection and inclusion – are of relevance to people with disabilities, and rights 3 and 17 of the Social Pillar specifically refer to people with disabilities. However, the Pillar does not alter EU competences on social policies, and due to its non-binding nature, the effects of the Pillar on EU disability policy are, as yet, 'quite uncertain'.

See: https://portal.cor.europa.eu/europe2020/Pages/Flagship%20Initiatives/European-Platform-against-Poverty-and-Social-Exclusion.aspx.

⁵⁷ Academic Network of European Disability Experts (ANED), Mainstreaming Disability Equality in the European Semester 2019-20 and Retrospective Analysis, report prepared by Mark Priestley with contributions from the ANED network members and comparative data provided by Stefanos Grammenos from Eurostat sources, 17 June 2019, p. 4, available at: https://www.disability-europe.net/theme/eu2020?country=european-union.

⁵⁸ Academic Network of European Disability Experts (ANED), Mainstreaming Disability Equality in the European Semester 2019-20 and Retrospective Analysis, report prepared by Mark Priestley with contributions from the ANED network members and comparative data provided by Stefanos Grammenos from Eurostat sources, 17 June 2019, p. 4.

⁵⁹ ANED, Mainstreaming Disability Equality in the European Semester 2019-20 and Retrospective Analysis, report prepared by Mark Priestley with contributions from the ANED network members and comparative data provided by Stefanos Grammenos from Eurostat sources, 17 June 2019, p. 7.

 $^{^{60}}$ European Pillar of Social Rights, available at: $\frac{\text{https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights en.}$

⁶¹ See: https://composite-indicators.jrc.ec.europa.eu/social-scoreboard/

⁶² European Pillar of Social Rights, <u>para. 14,</u> available at: https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en.

⁶³ Waddington, L. and Priestley, M., (eds.), Mainstreaming Disability Rights in the European Pillar of Social Rights – A Compendium, on behalf of ANED, February 2018, p. 11, available at: https://www.humanconsultancy.com/projects/academic-network-of-european-disability-experts-aned.

⁶⁴ Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, p. 316.

Lastly, in February 2018 the Council adopted a Decision approving the **EU's** conclusion of the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled. The European Parliament, as co-legislator, played an active role in the adoption of this legislation. The EU had signed the Treaty in April 2014. The Marrakesh Treaty aims at facilitating the availability and cross-border exchange of books and other print material in formats that are accessible to persons with print disabilities. It requires Parties to provide exceptions or limitations to copyright and related rights for the benefit of blind, visually impaired and otherwise print-disabled persons. 66

2.1.2 The EU Institutional Architecture on Disability Policy

From the outset, it is important to note that the disability infrastructure at EU level has evolved over the course of the current Strategy.⁶⁷ In the first instance, the European Commission's Disability Policy Unit has moved from the Directorate-General (DG) for Justice and Consumers (DG JUST) to the Directorate-General for Employment, Social Affairs and Inclusion (DG EMPL). Officers in this Unit are assigned to follow particular countries and coordinate specific activities related to disability policy. It is also noteworthy that the Commission convenes a Disability High-Level Group (DHLG), which brings together senior officials from Member State administrations.

In addition, the Commission has funded the Academic Network of European Disability experts (ANED), which carried out analysis of specific aspects of EU and national disability policy. ANED was established by the Commission in 2008, in order to provide advice to its Disability Policy Unit.

The European Parliament also has an important role to play in monitoring and supporting the disability-related work of the EU, and, for example, regularly draws attention to the situation of disabled people in its Resolutions on the situation of fundamental rights in the European Union. Moreover, many individual Committees in the Parliament are active on disability issues. The Petitions Committee, for example, regularly examines petitions which raise disability-related issues, while the Committee on Civil Liberties, Justice and Home Affairs addresses disability issues from multiple perspectives, including migration, asylum and disability; discrimination and equality; fundamental rights; political participation; citizenship; and free movement.

The institutional infrastructure that is in place at EU level, as outlined above, has not only contributed to CRPD implementation but also to the implementation of the current European Disability Strategy.

⁶⁵ Council Decision (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled [2018) OJ L 48/1,

⁶⁶ See Modernisation of the European Copyright Rules: The Marrakesh Treaty Implementation Framework, available at: https://www.europarl.europa.eu/legislative-train/theme-connected-digital-single-market/file-the-marrakesh-treaty-implementation-framework.

⁶⁷ On this point, see generally European Network of Equality Bodies (Equinet), 'Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020', Brussels, 2014, p. 9, available at: http://www.archive.equineteurope.org/IMG/pdf/disabiliby_perspective_with_cover.pdf.

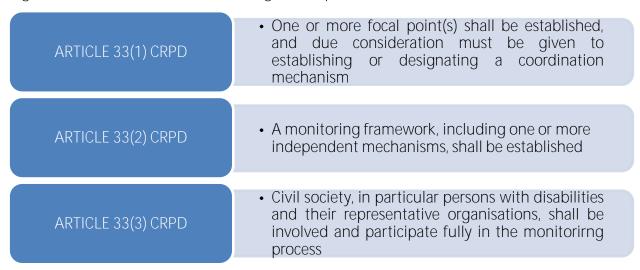
⁶⁸ See European Parliament Resolution of 16 January 2019 on the situation of fundamental rights in the European Union in 2017 (2018/2103(INI)), para. 38, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2019-0032 EN.html?redirect/.

 $^{^{\}rm 69}$ See section 4.1.4 of this study for further information.

In addition, the EU has set up a framework to monitor the implementation of the CRPD. As a Party to the CRPD, the EU (like its Member States) is under an obligation to maintain, strengthen, designate or establish a monitoring framework under Article 33(2) CRPD,⁷⁰ including one or more independent mechanisms, to promote, protect and monitor implementation of the UN Convention. Article 33(3) CRPD mandates that DPOs and civil society should play an active role in all activities pertaining to monitoring and implementing the UN Convention.

The monitoring and implementation requirements of the CRPD are depicted in figure 1 below.

Figure 1. Article 33 CRPD: Monitoring and Implementation of the CRPD



The EU CRPD Monitoring Framework operates in respect of all matters falling within EU competences. It is intended to complement the monitoring frameworks that exist at national level to monitor the implementation of the CRPD in EU Member States.

The EU CRPD Monitoring Framework was established following a proposal of the European Commission in 2012, and it began to operate in 2013. In October 2012, the Council agreed to the European Commission's proposal that the EU Framework consist of the following bodies: the European Parliament, the European Ombudsman, the European Commission, the European Union Agency for Fundamental Rights (FRA) and EDF. However, in its 2015 Concluding Observations on the initial report of the EU, the UN Committee on the Rights of Persons with Disabilities expressed its concern that the EU CRPD Monitoring Framework was not fully in line with the Paris Principles, 71 since the European Commission was (at that time) designated – under Article 31(1) CRPD – as the focal point for matters relating to implementation of the CRPD, and the Commission also formed part of the Monitoring Framework at EU level. 72 In that light, the UN Committee recommended that the EU take measures to

⁷⁰ See, in that regard, UN Committee on the Rights of Persons with Disabilities, Revised Rules of Procedure, 2 September 2016, CRPD/C/1/Rev.1, which contains an annex entitled 'Guidelines on Independent Monitoring Frameworks and their Participation in the Work of the Committee on the Rights of Persons with Disabilities'.

⁷¹ Principles relating to the Status of National Institutions, adopted by UN General Assembly Resolution 48/134 of 20 December 1993

⁷² UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 76,

remove the European Commission from the EU CRPD Monitoring Framework.⁷³ Immediately after receiving the Concluding Observations, the European Commission ceased participating in the Framework meetings, and began the process of formalising its withdrawal from the Framework.⁷⁴ The current structure of the EU CRPD Monitoring Framework is outlined below in figure 2.

Figure 2. The EU CRPD Monitoring Framework



Thus, while the European Commission is no longer part of the EU CRPD Monitoring Framework, the European Parliament – which is represented in the Monitoring Framework by the Committee on Employment and Social Affairs, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Petitions – works together with the European Ombudsman, the FRA and EDF to monitor CRPD implementation.

Notably, in its Concluding Observations on the initial report of the EU, the UN Committee also recommended that the EU should establish, separately from the above Monitoring Framework, 'an inter-institutional coordination mechanism', and that it should consider 'the designation of focal points in each European Union institution, agency and body'. This recommendation has not been followed up to date.

The developments in EU disability policy outlined above have undoubtedly been influenced by the negotiation and adoption of the CRPD at EU level. In that light, the next sub-section of this study explores the role of the CRPD as the benchmark for European disability policy initiatives.

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⁷³ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 77.

⁷⁴ UN Committee on the Rights of Persons with Disabilities, Information Received from the European Union on Follow-up to the Concluding Observations, 23 November 2017, CRPD/C/EU/CO/1/Add.1 (2017), para. 13.

⁷⁵ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 77.

⁷⁶ This point is discussed in other sub-sections of this study. See, for instance, sub-sections 3.1.1, 3.1.9 and 4.1.1 below.

2.1.3 The CRPD as the Benchmark for European Union Disability Policy

This sub-section examines the areas of the CRPD that are pertinent to the current and new Strategy, and reflects on the relevant recommendations of the UN Committee on the Rights of Persons with Disabilities, expressed in its Concluding Observations to the EU.

The adoption of the CRPD on 13 December 2006, and its entry into force on 3 May 2008, represent the 'high-water mark'⁷⁷ in the protection of the rights of persons with disabilities at the international level. The primary focus of the CRPD is on the elimination of barriers, in order to facilitate full and effective participation and inclusion in society of people with disabilities. The principle of full and effective participation and inclusion is enshrined in the General Principles of the CRPD in Article 3, along with several others.

Article 3 CRPD

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The UN Convention endorses the 'paradigm shift' from the outdated individual model of disability to the social-contextual model of disability.⁷⁸ In that connection, the CRPD recognises that 'disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others'.⁷⁹ While

⁷⁷ Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, p. 37.

⁷⁸ On the social model generally, see Barnes, C. and Mercer, G., (eds.), *The Social Model of Disability: Europe and the Majority World*, Disability Press, Leeds, 2005. Criticisms of the social model have been put forward by some authors, who allege, among others, that the social model focused on societal barriers (physical, attitudinal and legislative barriers, among others) and neglected the role of impairment in disabling individuals (see Shakespeare, T. and Watson, N., 'The Social Model of Disability: An Outdated Ideology?' *Research in Social Science and Disability*, Vol. 2, 2001, pp. 9–28). The CRPD implicitly recognises these criticisms, and considers disability as an interactive process between people with impairments and societal barriers, giving rise to the term 'social-contextual model of disability': see Broderick, A., *The Long and Winding Road to Equality and Inclusion for Persons with Disabilities: The United Nations Convention on the Rights of Persons with Disabilities*, Intersentia, Cambridge-Antwerp, 2015, p. 77.

⁷⁹ Preamble para. (e) of the CRPD. The Preamble of the CRPD must be read in conjunction with Article 1 CRPD.

the social-contextual model explains how disability arises, the substantive provisions of the CRPD are underpinned by a human rights model of disability in that they take into account human difference, and conceive of disability as 'one of several layers of identity', requiring Parties to the CRPD to address intersectional disadvantage.⁸⁰ The human rights model is mirrored in the CRPD's mandate of 'inclusive equality', which requires Parties to the CRPD to accommodate people with disabilities, ensure their participation in society as well as in implementation processes related to the UN Convention, address socio-economic disadvantages and combat stereotyping.⁸¹

As mentioned above, several of the provisions of the CRPD reflect the priority areas in the European Disability Strategy 2010-2020, highlighted above in the introduction and outlined in figure 3 below.

⁸⁰ UN Committee on the Rights of Persons with Disabilities, General Comment No. 6 on Equality and Non-discrimination, 26 April 2018, CRPD/C/GC/6, para. 9.

⁸¹ UN Committee on the Rights of Persons with Disabilities, General Comment No. 6 on Equality and Non-discrimination, 26 April 2018, CRPD/C/GC/6, para. 11.

Figure 3. Priority Areas of Action in the European Disability Strategy 2010-2020



Accessibility is the first priority area addressed in the European Disability Strategy 2010-2020. The Strategy recognises that accessibility is a 'precondition for participation in society and in the economy'. Accessibility is also mentioned as one of the general principles of the UN Convention in Article 3 CRPD. Furthermore, Parties' obligations pertaining to accessibility are spelled out in Article 9 CRPD, which requires Parties, including the EU, to take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies (ICT) and systems, and to other facilities and services open or provided to the public. Parties to the CRPD are required to identify and eliminate barriers to accessibility in buildings, roads, transportation, as well as in other facilities (including schools, housing, medical facilities and workplaces). In addition, goods and services, such as ICT and other services – specifically electronic and emergency services – must be made accessible. Notably, the accessibility obligations in Article 9 are of transversal application across the CRPD. In its 2015 Concluding Observations on the initial report submitted by the EU, the UN Committee on the Rights of Persons with Disabilities recommended that the EU take measures 'towards the prompt adoption of an amended European Accessibility Act that is aligned to the Convention' and that

is also in accordance with the interpretation of Article 9 put forward by the UN Committee in its General

⁸² European Disability Strategy 2010-2020, p. 5.

Comment No. 2 on accessibility.⁸³ The UN Committee also recommended that the EU include in the EAA effective and accessible enforcement and complaint mechanisms.⁸⁴

ii) Participation

The European Disability Strategy 2010-2020 acknowledges that there are 'many obstacles preventing people with disabilities from fully exercising their fundamental rights – including their Union citizenship rights – and limiting their participation in society on an equal basis with others'.⁸⁵ The Strategy focuses, in particular, on the exercise of participation rights by people with disabilities 'as individuals, consumers, students, economic and political actors'.⁸⁶ As outlined above, participation also features as a general principle of the UN Convention in Article 3 CRPD, as well as in several substantive provisions of the CRPD, such as the right to political participation, and the right to participate in culture, recreation, leisure and sport, contained in Articles 29 and 30 respectively. Furthermore, Article 4(3) CRPD requires close consultation with, and active involvement of, persons with disabilities, through their representative organisations, in the development and implementation of legislation and policies, and in all decision-making processes concerning issues relating to individuals with disabilities.⁸⁷

iii) Equality

The European Disability Strategy 2010-2020 specifically acknowledges the 'widespread' discrimination on the basis of disability that exists within the EU.⁸⁸ The principle of non-discrimination has been described as a 'leitmotif' of the CRPD.⁸⁹ Article 5 CRPD (on equality) has a broad remit, while the definition of discrimination on the basis of disability is contained in Article 2 CRPD. Article 2 CRPD covers many different forms of discrimination, including direct and indirect discrimination, and it classifies an unjustified denial of reasonable accommodation as a distinct form of discrimination.⁹⁰ In addition, the definition of discrimination on the basis of disability may be understood as meaning that harassment is covered by the CRPD's prohibition on discrimination, as well as an instruction to discriminate,⁹¹ although the latter form of discrimination was not mentioned by the UN Committee on the Rights of Persons with Disabilities in its General Comment No. 6 on Equality and Non-Discrimination. The UN Committee has affirmed that Article 6 of the CRPD (on women with disabilities) covers both multiple and intersectional discrimination.⁹² Furthermore, the UN Committee has noted

⁸³ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 29.

⁸⁴ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 29.

⁸⁵ European Disability Strategy 2010-2020, p. 5.

⁸⁶ European Disability Strategy 2010-2020, p. 5.

⁸⁷ Lindqvist, B., 'Background: Monitoring - A Key Element in Realizing Human Rights for All', in Rioux, M., Pinto, P.C. and Parekh, G., (eds.), *Disability, Rights Monitoring, and Social Change: Building Power out of Evidence*, Canadian Scholars' Press, Toronto, 2015, pp. 13-24, p. 21.

⁸⁸ European Disability Strategy 2010-2020, p. 6.

⁸⁹ Arnardóttir, O.M., 'A Future of Multidimensional Disadvantage **Equality'**, in Arnardóttir, O.M. and Quinn, G., (eds.), *The UN Convention on the Rights of Persons with Disabilities: European and Scandinavian Perspectives*, Martinus Nijhoff, The Hague-New York, 2009, pp. 41-66, p. 41.

⁹⁰ UN Committee on the Rights of Persons with Disabilities, General Comment No. 6 on Equality and Non-discrimination, 26 April 2018, CRPD/C/GC/6, para. 18.

⁹¹ Waddington, L. and Broderick, A., *Promoting Equality and Non-discrimination for Persons with Disabilities*, Council of Europe, Strasbourg, 2017, p. 10.

⁹² UN Committee on the Rights of Persons with Disabilities, General Comment No. 6 on Equality and Non-discrimination, 26 April 2018, CRPD/C/GC/6, para. 19.

that discrimination on the basis of disability can arise with regard to 'persons who have a disability at present, who have had a disability in the past, who have a disposition to a disability that lies in the future, who are presumed to have a disability, as well as those who are associated with a person with a disability'. In its Concluding Observations on the initial report of the EU, the UN Committee recommended that the EU adopt its proposed (2008) horizontal Directive on equal treatment, extending protection from discrimination to persons with disabilities beyond employment, including through the provision of reasonable accommodation in all areas of EU competence. The UN Committee on the Rights of Persons with Disabilities also recommended that the EU ensure that all forms of discrimination on the ground of disability are prohibited under EU law, including multiple and intersectional discrimination. In the committee of th

iv) Employment

In relation to employment, the European Disability Strategy 2010-2020 seeks to '[e]nable many more people with disabilities to earn their living on the open labour market'. This mirrors the approach taken under Article 27 of the UN Convention, which sets out the right of persons with disabilities to work, on an equal basis with others, and to gain a living by work freely chosen or accepted in a labour market that is open, inclusive and accessible to persons with disabilities. In that connection, in its Concluding Observations on the initial report of the EU, the UN Committee on the Rights of Persons with Disabilities recommended that the EU should take 'effective action to measure the employment situation of persons with disabilities and to increase their employment rate in the open labour market, including by providing training for Member States on reasonable accommodation and accessibility in the context of employment'. 96

v) Education and Training

The European Disability Strategy 2010-2020 provides that the European Commission will support the goal of inclusive, quality education and training, while fully respecting the responsibility of the Member States for the content of teaching and organisation of education systems. The key obligation contained in Article 24 CRPD, on education, is that of ensuring 'an inclusive education system at all levels and lifelong learning'. Article 24 seeks to ensure equality of access to all levels of education (primary, secondary and tertiary education, as well as vocational training, adult education and lifelong learning), and the provision of equal opportunities through reasonable accommodation and effective, individualised support measures, as well as the training of professionals and staff working with persons with disabilities. The Concluding Observations issued by the UN Committee on the Rights of Persons with Disabilities recommended that the EU should include disability-specific indicators in the Europe 2020 Strategy when pursuing goals related to education. 98

⁹³ UN Committee on the Rights of Persons with Disabilities, General Comment No. 6 on Equality and Non-discrimination, 26 April 2018, CRPD/C/GC/6, para. 20.

⁹⁴ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 19.

⁹⁵ European Disability Strategy, 2010-2020, p. 7.

⁹⁶ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 65.

⁹⁷ European Disability Strategy 2010-2020, pp. 7-8.

⁹⁸ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 61.

vi) Social Protection

In the context of social protection, the European Disability Strategy 2010-2020 focuses on addressing income inequality and poverty of people with disabilities; on assessing the adequacy and sustainability of social protection systems; and on providing support for people with disabilities through funding mechanisms, primarily the European Social Fund (ESF). Under Article 28(2) CRPD, Parties recognise the right of persons with disabilities to social protection without discrimination on the basis of disability, and are required to adopt measure to ensure access to appropriate and affordable services, devices and other assistance to meet disability-related needs; as well as to ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection and poverty reduction programmes. In its Concluding Observations on the initial report of the EU, the UN Committee on the Rights of Persons with Disabilities recommended that the EU take urgent measures, in cooperation with its Member States and DPOs, to prevent further adverse and retrogressive effects of austerity measures, including by setting 'a social protection floor' that respects the core of the right to an adequate standard of living and social protection.

vii) Health

The focus of the European Disability Strategy 2010-2020 in the field of healthcare is on policy development to ensure equal access to healthcare, including quality health and rehabilitation services, for people with disabilities. This reflects the CRPD's focus in Article 25 and Article 26. Under Article 25 CRPD, Parties to the UN Convention recognise that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. Parties to the CRPD have undertaken to adopt all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. Pursuant to Article 26 CRPD, Parties must organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services. In its Concluding Observations on the EU's initial report, the UN Committee on the Rights of Persons with Disabilities recommended that the EU evaluate the impact of Directive 2011/24/EU¹⁰¹ on patients' rights in cross-border health care with regard to gaps in access for persons with disabilities, including accessible information, reasonable accommodation and training of professionals.¹⁰²

viii) External Action

With regard to EU external action, the European Disability Strategy 2010-2020 undertakes to promote the rights of persons with disabilities, among others, in EU development programmes. The provisions of the CRPD that are of most relevance to EU policy on development cooperation are Article 28(2)(b) CRPD – which contains an obligation to ensure access to poverty eradication programmes – and Article 32 CRPD, on international cooperation. The UN Committee on the Rights of Persons with Disabilities

⁹⁹ See: https://ec.europa.eu/esf/main.jsp?catId=45&langId=en.

¹⁰⁰ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 67.

¹⁰¹ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border health care [2011] OJ L 88/45.

¹⁰² UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 63.

has noted positive trends in its Concluding Observations with regard to EU external action;¹⁰³ however, the UN Committee urged the EU to 'adopt a harmonized policy on disability-inclusive development', and establish a 'systematic approach' to mainstreaming the rights of persons with disabilities in all international cooperation policies and programmes.¹⁰⁴ It also recommended that the EU appoint disability focal points (DFPs) in related institutions and that it take the lead in the implementation of disability-inclusive Sustainable Development Goals (SDGs).¹⁰⁵ The UN Committee further suggested that the EU 'identify and put in place mechanisms to disaggregate data on disability' in order to monitor the rights of persons with disabilities in EU development programmes; and that the EU re-allocate any international development funding that is being used to perpetuate the segregation of persons with disabilities towards CRPD-compliant projects and programmes.¹⁰⁶ Notably, the UN Committee also specifically recommended that the EU should 'mainstream disability in its migration and refugee policies'.¹⁰⁷

2.1.4 The Content of the European Union Disability Strategy 2010-2020

This sub-section addresses the substantive content of the European Disability Strategy 2010-2020.

At the outset, it is important to note that the current Strategy was accompanied by two important documents when it was adopted: the list of actions for 2010-2015¹⁰⁸ and a working document¹⁰⁹ explaining the Strategy in the light of the CRPD. Notably, a second list of actions covering the 2016-2020 period was never adopted, although this had originally been envisaged. It is also noteworthy that some measures which have been adopted at EU level during the course of the current Strategy – and are linked to the Strategy – were not mentioned in the 2010-2015 list of actions.

Overall, the current Strategy focuses on the elimination of barriers. In that connection, the European Commission has identified eight interconnected priority areas, as highlighted above in the preceding sub-section. The eight priority areas were selected on the basis of:

 $^{^{103}}$ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 4.

¹⁰⁴ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 75.

¹⁰⁵ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 75.

¹⁰⁶ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 75.

¹⁰⁷ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 35.

¹⁰⁸ See European Commission, Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, Initial Plan to Implement the European Disability Strategy 2010-2020: List of Actions 2010-2015, {COM(2010) 636 final} {SEC(2010) 1323 final}, SEC(2010) 1324 final (European Disability Strategy 2010-2020, List of Actions), Brussels, 15 November 2010, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52010SC1324.

¹⁰⁹ European Commission, Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, 2010, SEC(2010) 1323 final, Brussels, 15 November 2010, p. 8, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010SC1323&qid=1576888351724&from=EN.

their potential to contribute to the overall objectives of the Strategy and of the UN Convention, the related policy documents from EU institutions and the Council of Europe, as well as the results of the EU Disability Action Plan 2003-2010, and a consultation of the Member States, stakeholders and the general public.¹¹⁰

The priority areas in the Strategy span various competences of the EU and the Member States. According to the Treaties which establish the EU, the EU shares competence with its Member States in the areas of, among others: the internal market; social policy; economic, social and territorial cohesion; consumer protection; transport; freedom, security and justice; and common safety concerns in public health matters.¹¹¹ In addition, in the areas of development cooperation and humanitarian aid, the Union has competence to 'carry out activities and conduct a common policy', without preventing the Member States from exercising their competence.¹¹²

The UN Convention is a mixed agreement under EU law, in the sense that it covers fields that fall partly within the exclusive competence of the EU, partly within the exclusive competence of the Member States, as well as fields that fall, in part, within the shared competence of the EU and its Member States. This is confirmed in the Council Decision on the conclusion of the CRPD by the EC (now EU). Since both the EU and its Member States are Parties to the UN Convention, its conclusion by the EU means that:

all of the provisions of the agreement falling within EU competences are binding on the European institutions. On the other hand, Member States have an EU law obligation to implement a mixed agreement insofar as its provisions are "within the scope of Community competence".¹¹⁵

In terms of its substantive content, the European Disability Strategy 2010-2020 envisages several tools to achieve its aims. 116

The current Strategy foresees the use of legislative and other instruments, such as standardisation mandates, in order to eliminate barriers in the internal market. With a view to optimising accessibility of the built environment, transport and ICT – areas in which the EU shares competence to act with its

¹¹⁰ European Disability Strategy 2010-2020, p. 4.

¹¹¹ Article 4(2) Treaty on the Functioning of the European Union (TFEU).

¹¹² Article 4(4) TFEU.

¹¹³ Waddington, L., 'The European Union and the United Nations Convention on the Rights of Persons with Disabilities: A Story of Exclusive and Shared Competences' Maastricht Journal of European and Comparative Law, Vol. 18, No. 4, 2011, pp. 431-453. See also Charitakis, S., Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2018, pp. 105-131.

¹¹⁴ Council Decision 2010/48/EC of 24 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L23, para. 7.

¹¹⁵ Charitakis, S., Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2018, p. 129, citing Case C-239/03, Commission of the European Communities v French Republic, ECLI:EU:C:2004:598.

¹¹⁶ For a summary of the types of tools proposed in the European Disability Strategy, see Inmaculada Plancencia Porrero, EU Disability Policies and Their Coordination (PDF presentation), available at: https://rm.coe.int/16800cde11.

Member States - the Strategy and the accompanying list of actions indicated that the European Commission would employ legislative and standardisation instruments, in line with the Digital Agenda¹¹⁷ and Innovation Union flagship initiatives. ¹¹⁸ In particular, the 2010-2020 Strategy highlighted that the EU would 'explore the merits of adopting regulatory measures to ensure accessibility of products and services, including measures to step up the use of public procurement, and that it would implement Standardisation Mandate 420,120 on accessibility of the built environment.121 In addition, the Strategy and its associated list of actions indicated that the Commission would propose a European Accessibility Act setting out a general accessibility framework in relation to goods and services: 122 and that it would explore the possibility to complete the legal framework on the rights of persons with reduced mobility by covering all relevant modes of transport, 123 and address the accessibility of voting procedures. 124 The Strategy also indicated that the EU would take measures to improve the accessibility of sports, leisure, cultural and recreational organisations, activities, events, venues, goods and services, including audiovisual ones. 125

In a similar vein, in the field of non-discrimination and equality – which is an area where the EU shares competence with its Member States - the Strategy indicated that the EU would promote equal treatment of people with disabilities through a two-pronged approach, involving: i) using existing EU legislation to provide protection from discrimination, and ii) implementing an active policy to combat discrimination and promote equal opportunities in EU policies. 126 In that regard, the Strategy highlighted that the EU would pay attention to cumulative (intersectional and multiple) discrimination, and would ensure that Directive 2000/78/EC is fully implemented. 127

The European Disability Strategy 2010-2020 and its associated list of actions also indicated that the EU would implement market-based strategies, by fostering an EU-wide market for assistive technology 128 and the cross-border transfer of copyright works in accessible formats, 129 and optimise the use of EU funding instruments to achieve accessibility and non-discrimination. 130

Moreover, with regard to the priority area of participation, the Strategy indicated that the EU would support Member States' activities by promoting the transition from institutional to community-based care using the Structural and Rural Development Fund (SRDF). 131

In the field of employment - an area where the EU has competence to support, coordinate and supplement Member States' actions and policies – the Strategy indicated that the EU would exploit the potential of the Agenda for New Skills and Jobs 132 flagship initiative of the Europe 2020 Strategy by providing Member States with analysis, political guidance, information exchange and other support; and by paying special attention to the transition of young people with disabilities from education to

¹¹⁷ See: https://www.dccae.gov.ie/en-ie/communications/topics/Digital-Agenda-for-Europe/Pages/default.aspx

¹¹⁸ See: https://ec.europa.eu/research/innovation-union/pdf/innovation-union-communication-brochure_en.pdf.

¹¹⁹ European Disability Strategy 2010-2020, p. 5.

¹²⁰ See: Standardisation mandate to CEN, CENELEC and ETSI in support of European accessibility requirements for public procurement built available https://ec.europa.eu/growth/toolsenvironment, databases/mandates/index.cfm?fuseaction=search.detail&id=392

¹²¹ European Disability Strategy 2010-2020, List of Actions, p. 4.

¹²² On the accessibility of goods and services, see generally Waddington, L., 'A Disabled Market: Free Movement of Goods and Services in the EU and Disability Accessibility' European Law Journal, Vol. 15, No 5, 2009.

¹²³ European Disability Strategy 2010-2020, List of Actions, p. 3.

¹²⁴ European Disability Strategy 2010-2020, p. 6.

¹²⁵ European Disability Strategy 2010-2020, p. 6. ¹²⁶ European Disability Strategy 2010-2020, p. 6.

¹²⁷ European Disability Strategy 2010-2020, p. 6.

¹²⁸ European Disability Strategy 2010-2020, p. 5.

¹²⁹ European Disability Strategy 2010-2020, List of Actions, p. 8.

¹³⁰ European Disability Strategy 2010-2020, p. 10.

¹³¹ European Disability Strategy 2010-2020, p. 6.

¹³² European Disability Strategy 2010-2020, p. 7.

the labour market.¹³³ The Strategy also foresaw that EU action would support and supplement national efforts to foster integration in the labour market by making use of the ESF; and by making workplaces more accessible.¹³⁴

Moreover, in the field of education and training – a field which falls under Member State competence and in which the EU only has competence to support, coordinate **and supplement Member States'** actions and policies – the Strategy affirmed that EU action would support national efforts through the ET 2020 framework; ¹³⁵ and that it would foster inclusive, quality education and training under the Youth on the Move initiative of Europe 2020; ¹³⁶ as well as facilitating participation in the Lifelong Learning Programme (LLP). ¹³⁷

With regard to the priority area of social protection, the Strategy indicated that the EU would support national measures to ensure the quality and sustainability of social protection systems for people with disabilities, notably through policy exchange and mutual learning. The Strategy also foresaw that the EU would pay attention to these issues through the EPAPSE, and by assessing the adequacy and sustainability of social protection systems and support through the ESF.¹³⁸

Concerning the field of external action, the list of actions attached to the Strategy indicated that EU action would support and complement national initiatives, and promote the rights of people with disabilities through a non-discriminatory approach, including in the enlargement process and development programmes.¹³⁹

Furthermore, the European Disability Strategy 2010-2020 outlined that the EU would take awareness-raising and educational measures with regard to the priority areas of accessibility and equality (among others) by encouraging incorporation of 'design for all' in educational curricula and professional training,¹⁴⁰ as well as by promoting diversity and combating discrimination through awareness-raising campaigns at EU and national level. Moreover, the Strategy committed the EU institutions to raising awareness of the UN Convention and the needs of persons with disabilities, including accessibility, in the area of emergency and humanitarian aid.¹⁴¹

Regarding the **Strategy's** priority area of health, EU action serves to complement national policies and to support cooperation between Member States in the field of public health, in accordance with Article 168 TFEU. In that regard, a key EU action in the current Strategy is the pledge to support research on healthcare provision to women and men with disabilities through the Seventh and Eight Framework Programmes (FP7 and FP8) actions. 142 \

Other actions envisaged under the European Disability Strategy 2010-2020 include the EU institutions promoting dialogue among Member States in the DHLG on the portability of rights, such as the right to personal assistance. The Strategy also indicated that the EU institutions would raise disability matters in the context of education through the Open Method of Coordination (OMC). OMC

¹³³ European Disability Strategy 2010-2020, p. 7; and European Disability Strategy 2010-2020, List of Actions, p. 11.

¹³⁴ European Disability Strategy 2010-2020, List of Actions, p. 10.

¹³⁵ European Disability Strategy 2010-2020, p. 8.

¹³⁶ See: https://ec.europa.eu/youthonthemove/.

¹³⁷ See: https://www.welcomeurope.com/european-funds/llp-lifelong-learning-programme-585+485.html#tab=onglet_details.

¹³⁸ European Disability Strategy 2010-2020, p. 8.

¹³⁹ European Disability Strategy 2010-2020, List of Actions, p. 15.

¹⁴⁰ European Disability Strategy 2010-2020, p. 5.

¹⁴¹ European Disability Strategy 2010-2020, List of Actions, p. 16.

¹⁴² European Disability Strategy 2010-2020, List of Actions, p. 15.

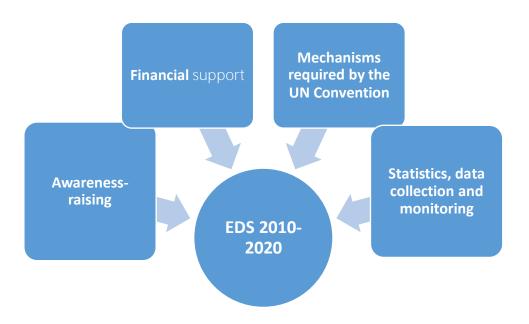
¹⁴³ European Disability Strategy 2010-2020, List of Actions, p. 7.

¹⁴⁴ European Disability Strategy 2010-2020, List of Actions, p. 13.

Additionally, the European Disability Strategy 2010-2020 indicated that the EU would support the work of various non-governmental organisations (NGOs) in the field of equality, 145 and would promote attention to disability matters in the work of equality bodies, notably through Equinet 146 – the European Network of Equality Bodies. The Strategy also included a commitment on the part of the EU institutions to strengthening DPOs in partner countries and organisations dealing with disability and development. 147

In addition to the various actions proposed in the eight priority areas of the European Disability Strategy 2010-2020, referred to above, the Strategy identified various measures to be taken at EU level in terms of implementation. Those measures relate to the four general sets of implementation measures highlighted in the Strategy and depicted below in figure 4.

Figure 4. Implementation Measures used in the European Disability Strategy 2010-2020



Three of these general sets of measures link concretely to the CRPD provisions, namely Article 8 CRPD on awareness-raising; and Articles 31 and 33 CRPD on statistics and data collection, and monitoring and implementation, respectively.

Finally, the Strategy indicated that the EU institutions would 'screen the UN Convention' to identify action needed within the institutions, including making buildings, websites, ICT tools and documents more accessible; and that an inter-institutional group would be created to coordinate the implementation of the UN Convention.¹⁴⁸

¹⁴⁵ European Disability Strategy 2010-2020, p. 7.

¹⁴⁶ European Disability Strategy 2010-2020, List of Actions, p. 9.

¹⁴⁷ European Disability Strategy 2010-2020, List of Actions, p. 16.

¹⁴⁸ European Disability Strategy 2010-2020, List of Actions, p. 20.

2.2 Reflections of Key Actors on the Design of the European Disability Strategy 2010-2020

This section of the study examines the views of key actors, including the European Parliament and other EU institutions, as well as key stakeholders from civil society, on the design of the European Disability Strategy 2010-2020. The documents drawn on in this section reflect the views of EU institutions and actors from civil society in the period directly preceding the adoption of the current Strategy, as well as documents published in the first few years of the current Strategy.

Reflections and recommendations expressed by the relevant actors regarding the actual implementation of the current Strategy are addressed in chapter 3 of this study.¹⁴⁹

2.2.1 The European Parliament

In a 2011 Resolution of the European Parliament,¹⁵⁰ adopted shortly after the adoption of the European Disability Strategy 2010-2020, the importance of the objectives of the Strategy were stressed by the Parliament.¹⁵¹ However, the Parliament also expressed its regret that the European Disability Strategy 2010-2020 did:

[...] not include an integrated gender perspective or a separate chapter on gender-specific disability policies, despite the fact that women with disabilities are often in a more disadvantaged position than men with disabilities and are more often victims of poverty and social exclusion [...]. 152

In that regard, the Parliament called on the Commission and the Member States to 'take gender aspects into account' throughout the European Disability Strategy 2010-2020.¹⁵³

In its 2011 Resolution, the Parliament furthermore affirmed that people with disabilities should be involved in all measures and decisions that affect them.¹⁵⁴ In that connection, the Parliament stressed the need for an 'efficient new approach to disability starting with the creation of a European Disability Board'.¹⁵⁵ The Parliament was of the view that such a Board should meet on a regular basis, with:

¹⁴⁹ See sub-sections 3.1.1-3.1.8 below.

 $^{^{150}}$ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C 131 E/9, available at: https://op.europa.eu/en/publication-detail/-/publication/20f5cc9b-b820-11e2-ab01-01aa75ed71a1/language-en.

¹⁵¹ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272 (INI)) OJ C 131 E/9, para. 4.

¹⁵² European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C131 E/9, para. 5.

¹⁵³ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C131 E/9, para. 5.

¹⁵⁴ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C131 E/9, para. 4.

¹⁵⁵ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C131 E/9, para. 6.

the active involvement of the European Parliament and the participation of representative organisations of persons with disabilities, as well as national task forces, in order to ensure more effective mechanisms to coordinate and monitor – as well as to evaluate – the implementation of the [Strategy] within the Commission and Member States' programmes and strategies. 156

In its 2011 Resolution, the Parliament also called, in particular, for the 'framing of more detailed actions at all levels of governance based on reliable data'.¹⁵⁷

In their contributions on the draft Parliament Resolution, the **Committee on Women's Rights and** Gender Equality called on the Member States to develop a 'National Strategy for Women with Disabilities', addressing the range of themes covered by the CRPD, 158 and the Committee on Petitions emphasised that the inclusion of people with disabilities was 'essential for the achievement of the goals of the European Disability Strategy 2010-2020'. 159 The Committee on the Environment, Public Health and Food Safety also gave its Opinion on the draft Resolution, and called for a 'more effective mechanism to coordinate and monitor implementation of the European Disability Strategy'. 160 It stressed in that context 'how important it is that people with disabilities, and CSOs working in this area, should be involved in this work'. 161

2.2.2 Other European Union Institutions

In a 2011 Opinion, adopted shortly after the adoption of the European Disability Strategy 2010-2020, the European Economic and Social Committee welcomed the current **Strategy as 'an active policy** instrument' to implement the CRPD.¹⁶²

¹⁵⁶ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C131 E/9, para. 6.

¹⁵⁷ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) OJ C131 E/9, para. 4.

Strategy 2010-2020 (2010/2272(INI)), Opinion of the Committee on Women's Rights and Gender Equality of 30 May 2011 for the Committee on Employment and Social Affairs on the mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) (Rapporteur: Morin-Chartier), para. 3, available at: https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2011-0263+0+DOC+XML+V0//EN#title4.

¹⁵⁹ European Parliament, Report of 6 July 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)), Opinion of the Committee on Petitions of 25 May 2011 for the Committee on Employment and Social Affairs on the mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) (Rapporteur: Chichester), para. 3.

¹⁶⁰ European Parliament, Report of 6 July 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)), Opinion of the Committee on the Environment, Public Health and Food Safety of 25 May 2011 for the Committee on Employment and Social Affairs on the mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) (Rapporteur: Rossi), para. 2.

¹⁶¹ European Parliament, Report of 6 July 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)), Opinion of the Committee on the Environment, Public Health and Food Safety of 25 May 2011 for the Committee on Employment and Social Affairs on the mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272(INI)) (Rapporteur: Rossi), para. 2.

¹⁶² European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European

The European Economic and Social Committee proposed linking the implementation of the European Disability Strategy 2010-2020 to the implementation of the Europe 2020 Strategy, and furthermore recommended that Member States include specific targets for persons with disabilities in their National Reform Programmes (NRPs), to measure poverty, employment rates and education. The European Economic and Social Committee also expressed the view that a 'European Disability Committee' was needed to provide 'structured governance' in respect of the European Disability Strategy 2010-2020, as well as 'a stronger and more efficient mechanism' to coordinate and monitor European and national implementation of the CRPD, pursuant to Article 33(1) of the UN Convention.

The European Economic and Social Committee denounced the negative impact of the financial crisis on the lives of people with disabilities and their ability to access their rights. In that regard, it expressed the view that the SIF and other financial tools should be used to fund the implementation of the European Disability Strategy and the CRPD.¹⁶⁵ It also expressed the view that 'additional mechanisms' were needed, for instance 'in relation to the Structural Funds, such as the direct allocation of funding (ring fencing) to actions targeting persons with disabilities and other vulnerable groups'.¹⁶⁶ Additionally, the European Economic and Social Committee recommended that the Multiannual Financial Framework (MFF) 2014-2020 should 'acknowledge the legal status' of the current Strategy and the CRPD in the EU, 'and allow funding for its mainstreaming and implementation'.¹⁶⁷

Shortly after the adoption of the European Disability Strategy 2010-2020, the Council of the EU also reflected on the design of the Strategy in its 2011 Conclusions on the implementation of the Strategy. The Council expressed the view that the Strategy provided 'a framework for action at European level, as well as suggested actions at national level, to address the range of diverse situations faced by women, men and children with disabilities'. The Council also affirmed that 'measures in the area of

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Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.1, available at: https://www.eesc.europa.eu/en/ourwork/opinions-information-reports/opinions/european-disability-strategy-2010-2020.

¹⁶³ European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.2.

¹⁶⁴ European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.9.

¹⁶⁵ European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.10.

¹⁶⁶ European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.10.

¹⁶⁷ European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C 376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, para. 1.12.

Council Conclusions of 11 October 2011 on the support of the implementation of the European Disability Strategy 2010-2020 OJ C 300/1, 11 October 2011, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011XG1011(03)&from=EN.

¹⁶⁹ Council Conclusions of 11 October 2011 on the support of the implementation of the European Disability Strategy 2010-2020 OJ C 300/1, 11 October 2011, para. 14.

the Single Market, notably strengthening its social and economic dimension, may have the potential to benefit persons with disabilities, including persons at risk of multiple discrimination'.¹⁷⁰

2.2.3 Relevant Stakeholders

In 2009, directly before the adoption of the European Disability Strategy 2010-2020, a two-month public consultation took place. The aim of the consultation was:

to provide the possibility to different stakeholders (organisations, public authorities, individuals including persons with disabilities and their organisations [and] enterprises) from all Member States to give their opinion on the problems that persons with disabilities face in Europe and the ways to solve them. The consultation was also designed to give feedback on priorities and challenges for the future of the European disability policy and the forthcoming strategy 2010-2020.¹⁷¹

The European Commission received 336 replies to its questionnaire that related to the preparation of the current Strategy. 70% of the responses came from individuals, while the remaining 30% of the responses were submitted on behalf of organisations. Various DPOs submitted statements in response to the consultation, including EDF, the European Association of Service Providers for Persons with Disabilities (EASPD), Inclusion Europe and Autism Europe.

In its summary of the main outcomes of the public consultation, the Commission noted that 'all proposed instruments received at least 76% of "suitable" or "very suitable" ratings, with targets and indicators being the least favoured and ensuring disability-friendly public purchasing the most supported with 92%'.¹⁷³ Adopting legislation to harmonise disability-related objectives across EU Member States was rated at 79%, whereas granting financial support for local projects and research received a rating of 'suitable' or 'very suitable' from 84% and 82% of respondents, respectively.¹⁷⁴ Adopting measures to finance the activities of NGOs enjoyed the support of 81% of responding organisations, and 77% of respondents on the whole.¹⁷⁵ Furthermore, 86% of respondents felt that assisting the Member States to exchange information and best practice was a 'suitable' or 'very suitable' role for the EU institutions.¹⁷⁶ Finally, it is noteworthy that 75% of respondents considered mainstreaming alone to be insufficient to address the problems faced by persons with disabilities, and

 $^{^{170}}$ Council Conclusions of 11 October 2011 on the support of the implementation of the European Disability Strategy 2010-2020 OJ C 300/1, 11 October 2011, para. 14.

¹⁷¹ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 5, available at: http://ec.europa.eu/social/BlobServlet?docId=5356&langId=en.

¹⁷² European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 6.

¹⁷³ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 10.

¹⁷⁴ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 10.

¹⁷⁵ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 10.

¹⁷⁶ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 10.

66% of respondents supported addressing disability issues with a combination of mainstreaming and specific policies.¹⁷⁷

In its summary of the main outcomes of the public consultation, the Commission outlined that the following suggestions were among the most 'prominent' ones made by the respondents: 178

- ⇒ A horizontal Directive aimed at achieving equal treatment and nondiscrimination for persons with disabilities in relation to access to goods and services should be adopted;
- ⇒ Disability indicators and targets should be adopted;
- ⇒ Disability should be mainstreamed in EU programmes designed to allocate financial support such as the SIF or in programmes related to development cooperation; and
- ⇒ Public procurement should be used as a lever to foster the inclusion of accessibility features in design and manufacturing processes in the EU.

Several individual responses were received to the Commission's public consultation. In its response to the public consultation, the European Association of Service Providers for Persons with Disabilities specifically stressed 'the need to assign clear political responsibility for disability at all levels of governance', stating that the Strategy:

should be owned at all levels, from local to EU and international, to ensure that there is strong political backing and support in order to achieve concrete results. EASPD also encourages the coordination of Action Plans and disability policies across the 27 Member States to make sure that all efforts are made to reach common goals.¹⁷⁹

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¹⁷⁷ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 10.

¹⁷⁸ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 12.

¹⁷⁹ European Association of Service Providers for Persons with Disabilities (EASPD), Response to the Public Consultation for a New EU Disability Strategy 2010-2020, Brussels, 22 December 2009, para. 2, available at: https://www.easpd.eu/sites/default/files/sites/default/files/easpd contribution to public consultation on new disability strategy 2.pdf.

In addition, EASPD argued that disability issues should be mainstreamed not only across EU institutions but also across all DGs of the European Commission. Furthermore, the European Platform for Rehabilitation (EPR) called upon the European Commission and the Member States to include 'a mutually agreed data collection framework' for reporting on the implementation of the CRPD as a priority in the European Disability Strategy 2010-2020. It also recommended that, in light of the newly adopted European Employment Strategy (EES), there should be close coordination between the 2010-2020 Strategy and the EES, in order to pursue the 'objective of developing an important framework for a favourable and inclusive open labour market'. Moreover, EPR recommended that the EU should stimulate the implementation of Article 19 CRPD, on independent living in the community, through 'mutual learning and the exchange of good practices' on 'cost-efficient community-based services'. I83

¹⁸⁰ EASPD, 'Response to the Public Consultation for a New EU Disability Strategy 2010-2020', Brussels, 22 December 2009, para.

EPR, 'Public Consultation on the Review of the European Disability Strategy', Brussels, 2011, p. 3, available at: https://www.epr.eu/wp-content/uploads/European-Disability-Strategy EPR-Contribution.pdf.

¹⁸² EPR, 'Public Consultation on the Review of the European Disability Strategy', Brussels, 2011, p. 2.

¹⁸³ EPR, 'Public Consultation on the Review of the European Disability Strategy', Brussels, 2011,

3. THE IMPLEMENTATION AND ASSESSMENT OF THE EUROPEAN DISABILITY STRATEGY 2010-2020

KFY FINDINGS

- In their responses to the public consultation carried out by the European Commission in 2015-2016, stakeholders indicated that the situation of people with disabilities had only improved slightly, or not at all, in the eight areas of action covered by the Strategy over the period 2010-2015.
- A number of European-level disability-specific DPOs made written submissions to the public consultation on the implementation of the 2010-2020 Strategy.
- The 2017 Commission Progress Report noted that progress had been made in all eight areas of the Strategy, with major progress achieved in the area of accessibility, in particular.
- The European Parliament has taken an active interest in the European Disability Strategy 2010-2020 and, more broadly, the conclusion and implementation of the CRPD by the EU.
- In November 2017, following the publication of the Commission's Progress Report on the implementation of the European Disability Strategy 2010-2020, the European Parliament adopted a Resolution on the implementation of the Strategy. This contained 155 points, addressing the eight key areas of action; obligations within the EU institutions in light of the CRPD; gaps in the Progress Report *vis-à-vis* the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities; and a post-2020 Strategy. The numerous recommendations and statements in the Resolution were directed at EU institutions, and in particular the Commission, and the Member States.
- On the whole, the European Disability Strategy 2010-2020 has contributed to embedding a
 human rights approach to disability in the policy discourse at EU level, and has supported
 the adoption of many important initiatives, in particular in the field of accessibility the
 European Accessibility Act being a prime example of progress achieved.
- However, there are still many shortcomings. In particular, no detailed analysis has been undertaken to identify the gaps between the Strategy and full compliance by the EU with the UN Convention. Furthermore, a detailed set of benchmarks and guidelines has not been adopted.

This chapter reflects, in section 3.1, on the implementation to date of the European Disability Strategy 2010-2020, with a view to assessing where progress has been made and what lessons can be learnt for the new Strategy. In that regard, sub-section 3.1.1 of the chapter briefly discusses the public consultation on the implementation of the European Disability Strategy 2010-2020, which took place in 2015-2016. Sub-section 3.1.2 examines the findings of the Progress Report on the implementation of the Strategy, published by the Commission in 2017, following a mid-term evaluation. Sub-sections 3.1.3 to 3.1.5 then present the views and recommendations of the European Parliament, the European Economic and Social Committee, and other stakeholders, on the Commission's Progress Report and the mid-term evaluation (where relevant), while sub-section 3.1.6 presents the responses received to the Commission's 2018 invitation for feedback on the 2010-2020 Strategy. Sub-section 3.1.7 discusses the 2019 survey of CSOs and the public consultation on the implementation of the 2010-2020 European Disability Strategy, while sub-section 3.1.8 analyses the views of academics on the current Strategy. Sub-section 3.1.9 presents data on the final evaluation by the European Commission of the Strategy, and sub-section 3.1.10 provides an overview of the current state of implementation of the 2010-2020 Strategy.

Section 3.2 discusses the impact of the current European Disability Strategy, while section 3.3 discusses the achievements and shortcomings associated with it.

3.1 Implementation of the European Disability Strategy 2010-2020

As noted in chapter 1 of this study, the European Disability Strategy 2010-2020 has the overall aim to 'empower people with disabilities so that they can enjoy their full rights, and benefit fully from participating in society and in the European economy, notably through the Single market'.¹⁸⁴ In light of this aim, the Strategy identifies overarching goals for its eight main priority areas of action and four sets of general implementation instruments. This set of goals was supplemented and made more specific by the list of proposed actions covering the period 2010-2015 that accompanied the publication of the Strategy. This list of proposed actions has become highly important in assessing the implementation of the Strategy, and assessments and evaluations of the Strategy have paid significant attention to whether each of the actions identified on the list was taken or not. However, in assessing the implementation of the Strategy, one should also pay attention to a number of other issues, including (changes in) the situation of people with disabilities in Europe over the lifetime of the Strategy, as revealed through Eurostat statistics and as presented by ANED. One should also note that several key instruments, which can, in fact, be regarded as contributing to the implementation of the Strategy, were not mentioned in the list of proposed action published in 2010. Moreover, as mentioned above, one should recall that the list of actions only covers the first five years of the Strategy, and no comparable list of intended actions was published for the second period of the current Strategy. Therefore, any assessment solely based on this list is highly limited.

Several of the sub-sections which follow detail the various evaluations of, and consultations on, the Strategy that have taken place since 2015. An overview and timeline of those evaluations and consultations is presented below in figure 5.

¹⁸⁴ European Disability Strategy 2010-2020, p. 4.

Figure 5. Timeline of Evaluations and Consultations regarding the European Disability Strategy 2010-2020

2015-

• Public consultation on the European Disability Strategy 2010-2020

• Publication of the Progress Report on the implementation of the European Disability Strategy 2010-2020

2017

• The European Commission invites submissions on the Strategy from civil society

Sept-Oct 2018

2019

• Public consultation on the implementation of the European Disability Strategy 2010-2020

2020

• Final evaluation of the European Disability Strategy by the European Commission 2010-2020

3.1.1 The 2015-2016 Public Consultation on the Implementation of the European Disability Strategy 2010-2020

Prior to the publication of the Progress Report on the implementation of the current Strategy in 2017, the Commission carried out a public consultation. The consultation period ran from late December 2015 until mid-March 2016, and aimed to collect the views of stakeholders on the situation of persons with disabilities and the impact that the Strategy had had in its first five years. 1,518 responses were received, of which 1,162 came from individuals (80.08%) and 289 from organisations (19.92%). This was a much higher response rate than in 2009, when the Commission received 336 replies to its consultation related to the preparation of the Strategy. The consultation related to the preparation of the Strategy.

The results of the public consultation carried out by the European Commission in 2015-2016 revealed that a large number of stakeholders felt that the situation had only improved slightly, or not at all, in the eight areas of action covered by the Strategy between 2010 and 2015. 61% of individuals and 48% of organisations were dissatisfied with the Strategy's achievements during the first five years. This is

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¹⁸⁵ The information in this sub-section is based on the analysis of the responses to the public consultation on the review of the European Disability Strategy 2010-2020, which was published in annex 1 to European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, available at: https://ec.europa.eu/social/main.jsp?catId=1484&langId=en.

¹⁸⁶ European Commission, Preparation of a New EU Disability Strategy 2010-2020, Summary of Main Outcomes of the Public Consultation, June 2010, p. 6, available at: http://ec.europa.eu/social/BlobServlet?docId=5356&langId=en.

perhaps not surprising, given the time needed for measures to achieve an impact and the limited impact that could be expected within this relatively short period.

The issues most frequently identified by respondents as important for persons with disabilities were lack of equal opportunities on the labour market, followed by lack of access to transport and lack of access to the built environment. In terms of challenges particular to children with disabilities, the problem of lack of inclusive education in regular schools was identified most frequently. Other areas of importance identified most frequently in response to an open-ended question were sexuality and affective relationships, awareness-raising of disability, and what it means to be disabled.

The factors which were most frequently identified as determining progress, even if limited, were interest groups and non-governmental advocacy, and public opinion/changes of mentality. EU funding and EU policy actions were identified as factors determining progress by about 10% of respondents. Organisations had a slightly more favourable view of the impact of these factors than did individuals. Lastly, the four factors most frequently identified as the main obstacles to quicker progress were lack of political will, lack of policy makers' understanding of the specificity of disability-related needs, lack of awareness among non-disabled people, and lack of human and financial resources. Between 11.47% of respondents (this was the rate for individuals, in the case of lack of human and financial resources) and 16.18% of respondents (individuals, in the case of lack of political will) identified these factors as obstacles. In addition, 9.21% of respondents from organisations identified that there was a need for a new action plan based on the recommendations contained in the Concluding Observations issued to the EU by the UN Committee on the Rights of Persons with Disabilities.

Having identified the overall findings which emerged from the public consultation, some specific issues raised by key stakeholders in their individual responses to the consultation are outlined below. This is possible because many organisations published their response online, and these remain available.

The European Disability Forum was strongly of the opinion that the Concluding Observations issued by the UN Committee on the Rights of Persons with Disabilities 'should [...] be used to develop a new action plan for the remaining years covered by the Strategy 2016-2020', ¹⁸⁷ and its response quoted from the Concluding Observations.

EDF noted that the current **Strategy 'does not take into consideration the negative consequences of** the economic crisis on the rights of per**sons with disabilities'.** Therefore, amongst the broader policy related suggestions were for the revised Strategy to have 'greater coordination' with the European economic strategy (Europe 2020) and the European economic governance policy mechanism (European Semester), and for the European Disability Strategy to be part of the Social Pillar. 189

EDF argued that there was little in the current Strategy which promotes autonomy, and recommended that the European Commission 'take the lead and play a coordination role to promote sharing of best-practice on supported decision-making'. EDF also proposed that a number of other areas should receive (more) attention in the revised Strategy, including political participation, awareness-raising and

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¹⁸⁷ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 4, available at: http://www.edf-feph.org/disability-strategy-europe-2020.

¹⁸⁸ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, pp. 5-6.

¹⁸⁹ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, pp. 5-6.

¹⁹⁰ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 6.

accessible communication.¹⁹¹ EDF also recommended that specific attention should be paid in the revised Strategy 'to the situation of refugees and other migrants with disabilities', and that the gender dimension should be fully reflected in the revised Strategy 'as a cross cutting element'.¹⁹²

According to EDF, 'the revised Strategy should also acknowledge the evolution of new technologies and its potential for persons with disabilities, as well as the [increasing] importance of digital inclusion in all aspects of life, and therefore it should also define specific measures to ensure digital access and opportunities for persons with disabilities'.¹⁹³

EDF was of the view that the current Strategy 'had a good potential for mainstreaming disability across the EU policy and legislative initiatives; however, this did not happen and the European Commission and the EU in general adopted several measures that did not include people with disabilities'. 194 Overall, EDF was of the opinion that 'a comprehensive revision' of the current Strategy was needed to ensure the implementation of the CRPD, and that a monitoring structure and 'a specific budget' should be included in the revised Strategy. 195 Furthermore, EDF noted that the revised Strategy 'should include proposals for disability focal points to be established in all Directorates of the Commission and relevant EU institutions and agencies', and that a 'coordination mechanism' between the institutions was also needed. 196

In addition to EDF, several European-level disability-specific DPOs made written submissions to the public consultation on the implementation of the Strategy. Key points made in some of those submissions are presented below. However, given the time that has passed since the consultation, some submissions are no longer available online, and the following information therefore does not cover all submissions made by European-level disability-specific DPOs.

Inclusion Europe, which represents organisations of people with intellectual disabilities and their families, carried out a survey of its members prior to submitting its response to the public consultation.¹⁹⁷ Their response focused on the barriers that their members faced in their day-to-day lives and made recommendations as to how the situation could be improved.¹⁹⁸ The response noted that deprivation of legal capacity for persons with intellectual disabilities is the greatest barrier to participation in society on an equal basis with others, and called on the EU to include 'legal capacity' as a new area of action in the European Disability Strategy 2010-2020.¹⁹⁹

The European Union of the Deaf (EUD) also carried out a survey of its members prior to responding to the public consultation. Responses were received from members in 21 countries. **EUD's submission** paid particular attention to issues of interest to the Deaf community, including legal recognition of Sign Language, access to Sign Language interpretation, ensuring adequate resources for research, training

¹⁹¹ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, pp. 6-7.

¹⁹² EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 7.

¹⁹³ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 14.

¹⁹⁴ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 13.

¹⁹⁵ See: http://www.edf-feph.org/newsroom/news/edf-responds-review-european-disability-strategy-2010-2020.

¹⁹⁶ See: http://www.edf-feph.org/newsroom/news/edf-responds-review-european-disability-strategy-2010-2020.

¹⁹⁷ Inclusion Europe, Public Consultation on the Mid-term Review of the European Disability Strategy 2010-2020 Review, Brussels, 2016, available at: https://www.inclusion-europe.eu/public-consultation-on-the-mid-term-review-of-the-european-disability-strategy-2010-2020-review/.

¹⁹⁸ Inclusion Europe, Inclusion Europe's Contribution to the Mid-term Review of the European Disability Strategy, Brussels, 2016, p. 2, available at: http://inclusion-europe.eu/wp-content/uploads/2015/03/IE submission EDS final1.pdf.

¹⁹⁹ Inclusion Europe, Inclusion Europe's Contribution to the Mid-term Review of the European Disability Strategy, Brussels, 2016, pp. 4 and 14.

and education related to Sign Language, and accessible information and communication more generally.²⁰⁰

The International Federation of Spina Bifida and Hydrocephalus, in its submission, regretted the lack of implementation of some of the planned actions, notably in the field of healthcare, including measures concerning accessibility standards for medical equipment, accessibility of e-health records for persons with disabilities, raising disability awareness among health professionals, and raising awareness among persons with disabilities of their right to access to healthcare.²⁰¹

The submissions to the public consultation and, in particular, the overall picture which emerged from the consultation, were taken into consideration by the Commission in drawing up its Progress Report on the implementation of the European Disability Strategy 2010-2020.

3.1.2 The Commission Progress Report on the Implementation of the European Disability Strategy 2010-2020

The Commission Progress Report on the implementation of the European Disability Strategy 2010-2020 was published in February 2017. The Report was preceded by the aforementioned open public consultation and an independent external evaluation of the Strategy, which was not published. The original intention was that a progress report on the Strategy would be published in 2013, and this would provide the basis for an update of the list of actions to cover the second half of the Strategy (2016-2020) and, if necessary, a revision of the Strategy. Indeed, several Parliamentary questions²⁰² addressed the delay in the publication of the Commission's mid-term review, according to a 2017 Briefing Report to the European Parliament. 203 However, the Commission prioritised the EU's obligation to report to the UN Committee on the Rights of Persons with Disabilities²⁰⁴ over the Progress Report, leading to a delay in the publication of the latter. According to the Parliament's 2017 Briefing Report, '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': Nevertheless, the UN Committee on the Rights of Persons with Disabilities addressed the delay in the publication of the Progress Report in its Concluding Observations, 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'.²⁰⁶

²⁰⁰ European Union of the Deaf, Reply to the Public Consultation on the Review of the European Disability Strategy 2010-2020, Brussels, 14 April 2016, available at: https://www.eud.eu/eu-institutions/european-commission/european-disability-strategy/reply-public-consultation-review-european-disability-strategy-2010-2020/.

The position paper is no longer available online, but a short description is available at: https://www.eu-patient.eu/Members/Weekly-Mailing/disability-strategy/.

²⁰² See, for instance, E-004723-14 and E-013569-15, cited in European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard AnImayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/603252/ EPRS BRI%282017%29603252 EN.pdf.

²⁰³ European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, p. 8.

²⁰⁴ European Commission, Commission Staff Working Document, Report on the Implementation of the UN Convention on the Rights of Persons with Disabilities (CRPD) by the European Union, Brussels, 5 June 2014, SWD(2014) 182 final.

²⁰⁵ European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, p. 8.

²⁰⁶ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 11.

The 2017 Progress Report was generally positive about the state of implementation of the Strategy, whilst also acknowledging ongoing challenges and criticisms. The Report noted that the Strategy framed EU actions and was the 'main instrument to support' the EU's implementation of the CRPD.²⁰⁷ It also noted that the Strategy had 'cemented the paradigm shift towards a human rights approach of disability policies'.208

The Commission's Report identified relevant action taken under all eight priority areas of the Strategy, and listed those actions. The actions indicated are not confined to the measures identified in the 2010-2015 list of actions.²⁰⁹ However, occasionally actions listed as linked to the Strategy in fact seem unrelated, such as judgments of the Court of Justice on the European Union (CJEU) on the interpretation of provisions of the Employment Equality Directive. 210 Nevertheless, such judgments are an important dimension of the action that the EU is taking in the field of disability. The Report noted that progress had been made in all eight areas, with major progress achieved in the area of accessibility, in particular. This was linked to the adoption of the Directive on Web Accessibility and the proposal for an EAA, 211 which was subsequently adopted in 2019. In addition, it also noted that successful efforts in external action had been recognised by the UN Committee on the Rights of Persons with Disabilities in its Concluding Observations to the EU.²¹² Less progress was identified regarding employment and education. The Progress Report found that the objectives of the Strategy remained relevant and that the Commission was mainstreaming disability in all relevant policy areas.

The Progress Report recognised that while 'significant progress has already been made in all areas of the Strategy [...] work remains to achieve its final objectives' and that the Commission was strongly committed to implementing the Strategy to its full extent. ²¹³ It noted that, in light of the dialogue with the UN Committee on the Rights of Persons with Disabilities and the recommendations it made for further action, challenges remained in all eight areas, and the Commission was taking account of the Committee's recommendations.²¹⁴ Several ongoing actions were identified, including a commitment to adopt the 2008 proposal for an equal treatment Directive and efforts to improve accessibility for all,

²⁰⁷ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 2, available at: https://ec.europa.eu/social/main.jsp?catId=1484&langId=en.

²⁰⁸ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 2.

²⁰⁹ See European Commission, Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, Initial Plan to Implement the European Disability Strategy 2010-2020: List of Actions 2010-2015, {COM(2010) 636 final} {SEC(2010) 1323 final} SEC(2010) 1324 final, Brussels, 15 November 2010 (European Disability Strategy 2010-2020, List of Actions), available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52010SC1324.

²¹⁰ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 8, available at: https://ec.europa.eu/social/main.jsp?catId=1484&langId=en.

²¹¹ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 2.

²¹² European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 2.

²¹³ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 19.

²¹⁴ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 19.

through the adoption of legal instruments and EU level accessibility standards, among others.²¹⁵ The Report also noted the UN Committee's recommendation to collect more statistics and data on the situation of people with disabilities.²¹⁶ It noted that mainstreaming of disability concerns remained an integral element of the implementation of the Strategy,²¹⁷ and that it was important to ensure close cooperation with all stakeholders and involve disabled people and their representative organisations in implementation of the Strategy.²¹⁸

Whilst recognising that progress had been made in implementing the Strategy, the Report also contained statistical data on the situation of persons with disabilities in Europe, which indicated that people with disabilities remained at a significant disadvantage compared to the rest of the population. It noted that access to the labour market was one of the main challenges facing people with disabilities. It stated 'at only 48.7%, the employment rate of people with disabilities remains much lower than the one of people without disabilities (72.5%)'.²¹⁹ It also noted that many people with disabilities were unable to access inclusive quality education, and were much more likely to leave education and training earlier than people without disabilities (22.5% of young people with disabilities, compared to 11% of young people without disabilities), and more likely to be at risk of poverty (30% of people with disabilities, compared to 21.5% of people without disabilities). These calculations were based on EU Statistics on Income and Living Conditions (EU-SILC) data from 2014.²²⁰

In short, the Commission report indicated a serious commitment to the ongoing implementation of the Strategy; presented the ongoing, disadvantaged situation of persons with disabilities in Europe, as revealed through statistical data; identified numerous actions that the EU had taken which could be linked to the Strategy; and indicated a desire to take further action, including acting on recommendations of the UN Committee on the Rights of Persons with Disabilities. However, it did not explicitly address problems and obstacles that arose in the implementation of the Strategy, or reflect on how to overcome those.

3.1.3 Views and Recommendations of the European Parliament on the Mid-term Evaluation of the European Disability Strategy 2010-2020, including the Commission's Progress Report

The European Parliament has taken an active interest in the European Disability Strategy 2010-2020 and, more broadly, the conclusion and implementation of the CRPD by the EU. In July 2016, the Parliament adopted a Resolution on the implementation of the Concluding Observations issued to the

²¹⁵ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 20.

²¹⁶ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 20.

²¹⁷ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 21.

²¹⁸ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 21.

²¹⁹ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 4.

²²⁰ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 4.

EU by the UN Committee on the Rights of Persons with Disabilities.²²¹ The Parliament's Resolution contained over 180 points and recommendations related to the Concluding Observations as well as the implementation of the CRPD by the EU. It was critical of the 'lack of a clear EU strategy for implementing the UN Convention on the Rights of Persons with Disabilities'. 222 It also called for the Commission 'to use the review of the European Disability Strategy to develop a comprehensive gender-inclusive EU CRPD strategy, including external action commitments with a clear implementation timeframe, and specific and precise benchmarks and indicators, and for the 'Commission to work closely with other EU institutions, bodies and agencies, as well as the Member States, to coordinate effective and systematic follow-up of the concluding observations, possibly via a strategy on the implementation of the CRPD'. 224

In November 2017, following the publication of the Commission's Progress Report on the implementation of the European Disability Strategy 2010-2020, the Parliament adopted a Resolution on the implementation of the Strategy. 225 This contained 155 points, addressing the eight key areas of action; obligations within the EU institutions in light of the CRPD; gaps in the Progress Report vis-à-vis the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities; and a post-2020 European Disability Strategy. The numerous recommendations and statements in the Resolution were directed to the EU institutions, in particular the Commission, and the Member States.

Whilst the Resolution was adopted by the whole Parliament, it was prepared under the auspices of the Committee on Employment and Social Affairs, and the rapporteur was Helga Stevens (Member of the European Parliament). Various other Committees of the Parliament discussed the draft Resolution, and made suggestions. Input was therefore received from the Committee on the Environment, Public Health and Food Safety, 226 the Committee on Culture and Education, 227 the Committee on Women's

²²¹ European Parliament, Resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) [2018] OJ C 101/138, 16 March 2018, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016IP0318.

²²² European Parliament, Resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) [2018] OJ C 101/138, 16 March 2018, para. 20.

²²³ European Parliament, Resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) [2018] OJ C 101/138, 16 March 2018, para. 22.

²²⁴ European Parliament, Resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) [2018] OJ C 101/138, 16 March 2018, para. 182.

²²⁵ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), P8_TA(2017)0474, Brussels. 30 November 2017, available https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

²²⁶ European Parliament, Report of 30 October 2017 on implementation of the European Disability (2017/2127(INI), Doc. No. A8-0339/2017, Opinion of the Committee on the Environment, Public Health and Food Safety for the Committee on Employment and Social Affairs on the Progress Report on the Implementation of the European Disability Strategy (2010-2020) (2017/2127(INI)) (Rapporteur: Childers), 12 October 2017, available at: https://www.europarl.europa.eu/doceo/document/A-8-2017-0339_EN.pdf.

²²⁷ European Parliament, Report of 30 October 2017 on implementation of the European Disability (2017/2127(INI), Doc. No. A8-0339/2017. Opinion of the Committee on Culture and Education for the Committee on Employment and Social Affairs on the Progress Report on the Implementation of the European Disability Strategy (2010-2020) (2017/2127(INI)) (Rapporteur: Ward), 13 October 2017.

Rights and Gender Equality²²⁸ and the Committee on Petitions.²²⁹ The Resolution therefore received detailed scrutiny and input from numerous Committees, as well as the Parliament as a whole.

Key points which were identified in the Resolution in the area of accessibility included a recommendation to set up units with expertise in accessibility within the hierarchy of the Commission;²³⁰ a call for full implementation and monitoring of all accessibility-related legislation, and enhanced assessment compliance with certain EU legislation;²³¹ as well as a call for the Commission and the Member States to ensure that accessibility is a high priority and better integrated into all disability policy areas.²³² Key points which were identified in the area of participation included the view that the European SIF must adhere to the CRPD, and should continue to foster deinstitutionalisation as a priority; and the belief that the Commission should closely monitor implementation by the Member States of the ex ante conditionalities²³³ linked to the SIF (on the transition from institutional to community-based services), which must be concrete and quality-assessed in an ongoing and transparent manner.²³⁴ Key points which were identified in the area of equality included addressing disability within EU gender equality work and data collection;²³⁵ and calls for training and development of models of good practice on the principle of non-discrimination, including multiple and intersectional discrimination and reasonable accommodation.²³⁶ Important points which were identified in the area of employment included a call on the Commission to include good and bad practices in future reports, to enable employers to implement disability legislation effectively;²³⁷ and for the EU to address the rights of persons with disabilities and their families in the proposed package on work-life balance. 238 Key points which were identified in the area of education and training included a call for EU youth programmes to be fully accessible to persons with disabilities; the provision of information on

²²⁸ European Parliament, Report of 30 October 2017 on implementation of the European Disability (2017/2127(INI), Position in the Form of Amendments of the Committee on Women's Rights and Gender Equality for the Committee on Employment and Social Affairs on the Progress Report on the Implementation of the European Disability Strategy (2010-2020) (2017/2127(INI)) (Rapporteur: Ferragut), 12 September 2017.

²²⁹ European Parliament, Report of 30 October 2017 on implementation of the European Disability (2017/2127(INI), Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the UN Convention on the Rights of Persons with Disabilities with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) (Rapporteur: Wikström), 11 September 2017.

²³⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 2, available at https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, paras. 4 and 6.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 13.

²³³ For the general *ex ante* conditionalities, see Part II of Annex XI of the Common Provisions Regulation (EU) 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 18, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, paras. 30 and 32.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 34.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 45.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 49.

accessibility rights to encourage participation of persons with disabilities; ²³⁹ and addressing the needs of persons with disabilities in skill-related initiatives. ²⁴⁰ Key points which were identified in the area of social protection included a call on the Commission to mainstream disability within the Social Pillar; ²⁴¹ and a recommendation to use various EU funds to support social inclusion as well as employment activation measures. ²⁴² Key points which were identified in the area of health included a call on the Commission to carry out an impact assessment of the 2011 Patient's Rights Directive ²⁴³ with a view to revising it, to bring it into line with the CRPD. ²⁴⁴ A key point which was identified in the area of external action was for the Commission to be a leader in achieving disability-inclusive implementation of the SDGs in the EU external action by adopting 'a clear, transparent and inclusive roadmap' to achieve the goals. ²⁴⁵

The Parliament's 2017 Resolution represented a thorough and detailed reflection on the implementation of the European Disability Strategy 2010-2020, and identified numerous areas where further action could usefully be taken to enhance the impact of the Strategy.

3.1.4 Views and Recommendations of Other European Institutions on the Mid-term Evaluation of the European Disability Strategy 2010-2020, including the Commission's Progress Report

The European Economic and Social Committee did not issue an Opinion on the Commission's Progress Report, but did adopt an Opinion on the Concluding Observations that the UN Committee on the Rights of Persons with Disabilities issued to the EU in 2015. This was an own-initiative Opinion adopted in 2017 and Ioannis Vardakastanis, who is also the President of EDF, was the rapporteur. The Opinion made numerous recommendations and suggestions, covering both a wide range of specific policy areas and institutional matters, and explicitly addressed the need for a revision of the European Disability Strategy 2010-2020. The European Economic and Social Committee found that the UN Convention and the related Concluding Observations presented 'a unique opportunity' for the European Commission 'to present an EU overarching strategy on the rights of persons with disabilities

²³⁹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 54.

²⁴⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 55.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 69.

 $^{^{242}}$ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 70.

²⁴³ Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border health care [2011] OJ L 88/45.

²⁴⁴ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 73, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 91.

²⁴⁶ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, available at: https://www.eesc.europa.eu/our-work/opinions-information-new-strategy-persons-disabilities-european-union.

[...]'.²⁴⁷ It called on the EU institutions to mainstream the **Concluding Observations** 'into existing and future EU law and policy making'.²⁴⁸

A key recommendation of the European Economic and Social Committee was that in order to mainstream disability, the European Commission:

needs to undertake a cross-cutting and comprehensive mapping exercise across all its law, policies and programmes to ensure full harmonisation with the UN CRPD provisions and actively involve representative organisations of [people with disabilities] (DPOs) in this process. This mapping exercise should be accompanied by a gap analysis assessing the gaps among the current law, policy making and disability rights mainstreaming and the [UN CRPD]. The mapping exercise and gap analysis should be explicitly included in the revised European Disability Strategy [...].²⁴⁹

The European Economic and Social Committee asked the European Commission:

to take stock of developments in disability rights' and broaden the scope of the Strategy by introducing more areas of action, and linking it to the review and revision of other policies, programmes and funding instruments (e.g. Europe 2020, the Gender Equality Strategy, the Children['s] Rights Strategy [and] EU external action commitments) [...].

It also recommended that the Commission should include the implementation of the UN 2030 Agenda,²⁵¹ which sets out the SDGs, in the revised Strategy 'by establishing European targets and actions in order to achieve all SDGs inside the EU also for [people with disabilities]'.²⁵² It suggested that a CRPD implementation strategy covering all EU institutions should be established, and suggested that a high-level meeting of leaders of the EU institutions was needed in order to:

²⁴⁷ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 1.3.

²⁴⁸ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 1.2.

²⁴⁹ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C3 4/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 1.4.

²⁵⁰ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 1.9.

²⁵¹ See: https://sustainabledevelopment.un.org/post2015/transformingourworld.

²⁵² European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 1.10.

initiate the process of preparing and adopting an inter-institutional UN CRPD agenda with specific goals to be achieved and targets to be met. The overarching strategy should identity responsibilities for each EU institution for CRPD implementation.²⁵³

The European Economic and Social Committee called on the Commission 'to initiate the process to achieve the overarching CRPD strategy as a matter of urgency with the full consultation and involvement of DPOs'.²⁵⁴

3.1.5 Views and Recommendations of Stakeholders on the European Disability Strategy 2010-2020

The public consultation in 2015-2016 on the European Disability Strategy 2010-2020, and the subsequent publication of the Commission's Progress Report, provided the opportunity for a number of stakeholders to reflect on the future development of the Strategy. This sub-section of the study therefore looks at proposals that have been made by stakeholders for developing or refocusing the current Strategy during the second half of its implementation period. These proposals are, in some cases, also relevant for the development a new post-2020 Strategy. The information drawn on in this sub-section is based on the responses and reactions which are still available online. It can be assumed that several responses are no longer readily available, and these are therefore not covered in this study.

In 2014, Equinet published a report entitled 'Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020'.²⁵⁵ The report was drawn up following a survey of its (then) forty-two members, all of which are national equality bodies in EU Member States. Twenty-one members, from twenty-one Member States, completed the survey. The report noted the negative impact which the economic crisis and accompanying austerity measures were having on people with disabilities, as well as the relevance of the ratification of the CRPD. With regard to the Strategy and the CRPD, the Equinet report noted:

The UNCRPD could usefully come more centre stage in the future development of the European Disability Strategy. It sets a broad common agenda that Member States are bound to pursue and could provide a basis for shared strategies, mutual support and peer review between Member States. The monitoring of its implementation will throw

²⁵³ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 2.4.

²⁵⁴ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 2.8.

²⁵⁵ (European Network of Equality Bodies (Equinet), Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020, Brussels, 2014, available at: http://www.archive.equineteurope.org/IMG/pdf/disabiliby perspective with cover.pdf.

up shortcomings, successes and challenges that could inform priorities within the European Disability Strategy.²⁵⁶

More broadly, the report made several important recommendations for renewing the European Disability Strategy 2010-2020. Several of these, such as the enactment of the EAA, were, in fact, acted upon in the following years. However, a number of the recommendations – including the three key points that the Strategy should be 'values led, equality focused and rights based', 'advance the wider infrastructure for equality for people with disabilities', and 'add to and deepen' the themes covered by the Strategy²⁵⁷ – remain relevant. Several of the specific recommendations made by Equinet are outlined below:²⁵⁸

- ⇒ Combating stereotyping and stigma should be a focus within the Strategy, with particular attention to stereotyping and stigmatisation of people with intellectual disabilities and people with mental health issues.
- ⇒ Making progress on deinstitutionalisation should remain a significant focus for the Strategy.
- ⇒ Social protection and poverty issues should be brought more to the forefront through actions that ensure that public resources are used to reverse the impact of the economic crisis on people with disabilities.
- ⇒ Employment of people with disabilities should be advanced in NRPs and through Country-Specific Recommendations.

Equinet argued that the European Disability Strategy should recognise the importance of the work of equality bodies to the effective implementation of the Strategy. It should ensure the full involvement of equality bodies in the various European and Member State structures with responsibilities for the Strategy, and enable continued access to resources for the work of equality bodies on disability issues from European funding sources.²⁵⁹

This particular report was published in 2014. However, a number of other stakeholders took the opportunity to comment on the Strategy following the publication of the Commission's Progress Report in 2017.

²⁵⁶ Equinet, Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020, Brussels, 2014, pp. 11-12.

²⁵⁷ Equinet, Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020, Brussels, 2014, p. 27.

²⁵⁸ Equinet, Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020, Brussels, 2014, pp. 27-28.

²⁵⁹ Equinet, Realising Rights: Equality Bodies and People with Disabilities. Supporting the Review of the European Disability Strategy 2010-2020, Brussels, 2014, pp. 27-28.

Mental Health Europe (MHE), in its Position Paper on the mid-term review of the European Disability Strategy 2010-2020 published in 2017, called on the Commission to ensure that the review process led to a comprehensive revision of the Strategy and an updating of the list of actions, reflecting all relevant developments since its adoption. It also called on the Commission to ensure that the revision took into account the needs of, and barriers faced by, persons with psychosocial disabilities, with a new specific action area covering autonomy, and for it to ensure meaningful consultation with DPOs and disability-allied organisations when developing or reviewing key disability policies.²⁶⁰

In 2019, MHE published a second position paper in which it assessed the European Disability Strategy 2010-2020.²⁶¹ This paper primarily reflected on the MHE's priorities for the new European Disability Strategy and, in this respect, the paper repeated many of the priorities which were previously mentioned in its 2017 Position Paper.²⁶² In line with the Commission's Progress report, the 2019 Position Paper of MHE noted that most progress had been made in the areas of accessibility and external action, but that 'proposals based on the eight action areas of the Strategy have not always led to ambitious policies, nor have [they] led to the rights of persons with disabilities [being] fully mainstreamed in all EU actions'.²⁶³ The Position Paper found that 'the Strategy does not mention relevant policy developments that have taken place after its adoption, nor were these integrated after the 2016 mid-term review'.²⁶⁴ It also found that it was:

a pity that the Strategy was not designed nor reviewed to cover all the provisions of the UN CRPD and the [Concluding Observations]. In addition, the Strategy does not include the 2030 Agenda and the Sustainable Development Goals (SDGs), the European Pillar of Social Rights nor the European Framework for Action on Mental Health and Wellbeing.²⁶⁵

The paper argued that there was inadequate disability mainstreaming, and that this was connected to the lack of coordination of the Strategy with various other EU policy instruments, including the EU's economic strategy (Europe 2020), the EU's economic governance (the European Semester) and EU funding (e.g. the ESF, the ERDF, Erasmus+, etc.).²⁶⁶

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²⁶⁰ This position paper is no longer available online, but a short description can be found at: https://www.socialplatform.org/news/mental-health-europe-mhe-publishes-a-position-paper-on-the-midterm-review-of-the-eu-disability-strategy/.

²⁶¹ Mental Health Europe (MHE), Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, April 2019, available at: https://mhe-sme.org/wp-content/uploads/2019/04/Assessment-of-the-European-Disability-Strategy-2010-2020.pdf.

The position paper is no longer available online, but a short description can be found at: https://www.socialplatform.org/news/mental-health-europe-mhe-publishes-a-position-paper-on-the-midterm-review-of-the-eu-disability-strategy/.

²⁶³ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, April 2019, p. 1, available at: https://mhe-sme.org/wp-content/uploads/2019/04/Assessment-of-the-European-Disability-Strategy-2010-2020.pdf.

²⁶⁴ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, April 2019, p. 1.

²⁶⁵ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, April 2019, p. 1.

²⁶⁶ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, April 2019, p. 2.

The European Network on Independent Living (ENIL) published a Response to the public consultation on the review of the European Disability Strategy 2010-2020 in March 2018.²⁶⁷ It argued that the European Disability Strategy 2010-2020 should be used to implement the recommendations made by the UN Committee on the Rights of Persons with Disabilities. ENIL highlighted several recommendations from the UN Committee which it believed should be implemented as a matter of priority, some of which related to deinstitutionalisation. ENIL made a number of suggestions for improving the effectiveness of the Strategy, including identifying departments and units within the Commission responsible for coordination of implementation; establishing a mechanism for monitoring and evaluation, including identifying how user-led organisations would be involved; allocating resources for implementing the Strategy; and clear measurable actions linked to a specific timeframe. ENIL also called on the Commission to publish annual updates on the implementation of the current Strategy, not only highlighting areas where progress has been made, but also focusing on setbacks, delays and areas for improvement; and to provide training on the CRPD and the Strategy, in cooperation with user-led organisations, for everyone involved in implementing the Strategy.

The European Association of Service Providers for Persons with Disabilities (EASPD) published a Review of the European Disability Strategy in 2017. The Review was based on responses given by 33 of its members, from 19 countries, to a questionnaire. EASPD was of the view that support services should be recognised as key facilitators of CRPD implementation and that the European Disability Strategy 2010-2020 should help service providers to achieve this. Consequently, EASPD reviewed the extent to which the Strategy had assisted disability service providers in the implementation of the CRPD.

The answers to the questionnaire carried out by EASPD indicated that the European Disability Strategy 2010-2020 was not universally understood or applied by organisations operating at national or regional level. While EASPD's members were mostly aware of the existence of the Strategy, many of them did not refer to it for guidance in their work. In two thirds of cases, this was because either the CRPD or a national Strategy was regarded as more relevant to the work of the organisations, while insufficient knowledge about the European Disability Strategy 2010-2020 was a reason for the remaining third.

The Review identified several challenges that were, in the view of EASPD members, hampering achievements in several of the fields addressed by the Strategy. With regard to accessibility, two key challenges were identified: a lack of resources and funding, particularly for the alteration of physical infrastructure, to make all buildings universally accessible; and, at all levels, a lack of awareness about disability and the prevalence of traditional attitudes. The latter was also identified as the biggest challenge to achieving progress in the field of participation. With regard to education, identified challenges included a 'culture of special education'; inappropriate (implementation of) local or national strategies; a lack of funding and specialised teaching assistants to support a unified strategy for inclusion, and the need to mainstream inclusive training into teaching qualifications. With regard to employment, overall high unemployment rates were seen as a challenge in some countries. Other

²⁶⁷ European Network on Independent Living (ENIL), Response of the European Network on Independent Living to the Public Consultation on the Review of the European Disability Strategy 2010 – 2020, Brussels, 18 March 2016, available at: https://enil.eu/news/enils-response-on-the-european-disability-strategy-2010-2020/.

²⁶⁸ ENIL, Response of the European Network on Independent Living to the Public Consultation on the Review of the European Disability Strategy 2010 – 2020, Brussels, 18 March 2016, pp. 2-3.

²⁶⁹ EASPD, 'EASPD Review of the European Disability Strategy', Brussels, December 2017, available at: https://www.easpd.eu/sites/default/files/sites/default/files/sites/default/files/easpd-review-on-eds-2017.pdf.

challenges were lack of awareness on the part of employers; long and bureaucratic procedures; and the need for meaningful, rather than 'fake', job opportunities. Lastly, with regard to social protection, lack of funding was once again identified as the biggest challenge across countries. The EASPD Review contained recommendations for further action in all five covered areas, including campaigns to change attitudes and awareness, and the creation and implementation of effective national or local legislation and policy to support social services in the implementation of the CRPD. The EASPD Review concluded that the Strategy:

supports our members through its aim to support national efforts in the key areas of action [...] More can be done however and the European Commission must make the [Strategy] more relevant to service providers and acknowledge the important role support services play in the empowerment of people with disabilities to full implementation of the UN CRPD.²⁷⁰

The European Platform for Rehabilitation (EPR) also published an analysis of the Mid-term Review and proposals for the future development of the Strategy.²⁷¹ With regard to the Progress Report, it noted that:

[t]he most critical point of the review is the slow improvement of life of people with disabilities between the start of the Strategy in 2010 and 2015, despite the advocacy work carried out by interest groups and organisations working with people with disabilities. Lack of political will and understanding by policy makers of disability-related needs are said to be at the core of the slow pace by which people with disabilities' rights are advancing in the European Union.²⁷²

The analysis by EPR summarised some of the findings of the Progress Report, but also set out EPR's views on the future development of the Strategy. EPR not only expressed the view that the new European Disability Strategy should show clear commitment and advancement in the areas of employment, education and social inclusion,²⁷³ but also made several suggestions for issues to be addressed in the period 2015-2020. EPR called for work to be done on models to promote successful integration and employment of people with disabilities in the labour market, and particularly supported employment models; greater moves towards inclusive education models, and investment in national education programmes and vocational training; and work on high-quality social services with an emphasis on person-centred, community-based care and independent living.

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²⁷⁰ EASPD, 'EASPD Review of the European Disability Strategy', Brussels, December 2017, p. 9.

²⁷¹ EPR, 'European Disability Strategy 2010-2020: Analysis of the Mid-term Review and Proposals for the Next Steps', available at: https://www.epr.eu/wp-content/uploads/European-Disability-Strategy-Mid-Term-Review-and-Future-Strategy.pdf.

EPR, 'European Disability Strategy 2010-2020: Analysis of the Mid-term Review and Proposals for the Next Steps', pp. 2-3.

²⁷³ EPR, 'European Disability Strategy 2010-2020: Analysis of the Mid-term Review and Proposals for the Next Steps', p. 3., available at: https://www.epr.eu/wp-content/uploads/European-Disability-Strategy-Mid-Term-Review-and-Future-Strategy-pdf.

EPR noted that adequate funding should be secured within the MFF to implement the new Strategy and the CRPD, and the EU Structural Funds should be used to ensure the right of persons with disabilities to live independently. A clear and efficient monitoring mechanism should be part of the new Strategy, and outcomes should be measured to ensure transparency, accountability and optimised service delivery.²⁷⁴

3.1.6 Response to the Commission's 2018 Invitation for Feedback on the European Disability Strategy 2010-2020

Between 28 September 2018 and 26 October 2018, the Commission called for feedback to assist it in assessing whether the EU Disability Strategy was being implemented; whether it had led to suitable policies/measures; and how it had influenced implementation of the CRPD. This was a modest consultation exercise (inception impact assessment), linked to an evaluation roadmap²⁷⁵ and the Better Regulation Agenda,²⁷⁶ which preceded the larger public consultation on the future of the European Disability Strategy, held in 2019.²⁷⁷ Several brief responses from organisations were received, most of which were published on the Commission's homepage.²⁷⁸ Some of these submissions are noted below.

The response of the European Disability Forum listed a number of points to be considered in developing a new Strategy, including the direct involvement of persons with disabilities in the planning and development of the new Strategy, and the full inclusion of the recommendations of the UN Committee on the Rights of Persons with Disabilities. It noted that the European Parliament Report on the European Disability Strategy 2010-2020,²⁷⁹ adopted in 2017, was important, as this was a collective input from the Parliament and involved structured dialogue with DPOs. In terms of the review of the current Strategy, EDF recommended that this should incorporate an evaluation of the EU's global development humanitarian and human rights work, with a view to addressing 'inclusiveness accessibility and mainstreaming in their programmes'. It also called for part of the consultation to be focused on how the then upcoming changes to the MFF could present new opportunities for implementing the CRPD and achieving the objectives of a future Strategy.²⁸⁰

Mental Health Europe, in its submission, called for an evaluative review which examined how the European Disability Strategy 2010-2020 and its actions had addressed the needs of, and barriers faced by, persons with psychosocial disabilities in Europe. It felt that this would allow MHE and its members

²⁷⁴ EPR, 'European Disability Strategy 2010-2020: Analysis of the Mid-term Review and Proposals for the Next Steps', p. 6.

²⁷⁵ Ref. Ares(2018)4987363 - 28/09/2018. For more information on roadmaps, see: https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law-en#how-their-scope-is-defined.

See: https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how en.

²⁷⁷ For more information on this process generally, see: https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/impact-assessments-en.

See: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882 en. One submission came from Moldova. This was removed from the Commission's homepage because it did not comply with the Commission's rules for publishing feedback and suggestions.

²⁷⁹ European Parliament, Report of 30 October 2017 on implementation of the European Disability Strategy (2017/2127(INI)), A8-0339/2017, available at: https://www.europarl.europa.eu/doceo/document/A-8-2017-0339 EN.pdf.

²⁸⁰ Feedback from: EDF, 25 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14528 en?p_id=305847.

to evaluate the impact of the Strategy on the ground in Member States, and consider how such impact could be monitored in the future.²⁸¹

COFACE Families Europe, which is a network of family organisations, made suggestions for how to ensure a broad reach of the upcoming consultation, including through the provision of interpretation and full accessibility in line with the inclusive approach of the CRPD, and reaching out to organisations representing families of persons with disabilities. It argued that part of the consultation should be focused on how the CRPD could be implemented through other European initiatives, including the next MFF, the European Semester, the Social Pillar, the Digital Single Market, and UN initiatives such as the SDGs.²⁸²

Social Economy Europe, which is the umbrella organisation representing the social economy sector across the EU, stated that it believed that the current European Disability Strategy had not lived up to expectations, and noted that neither the 2008 proposed equality Directive nor (at that time) the EAA, had been adopted. Social Economy Europe called for the new European Disability Strategy to look specifically at, and promote the role that, social economy enterprises could play in improving the integration of people with disabilities.²⁸³

In addition to these European-level organisations, several national organisations made submissions.

The Spanish non-governmental organisation, CERMI, made two submissions, which called for a new Strategy which complied with the CRPD, and which was aligned with the SDGs and the Social Pillar. CERMI felt that the European Disability Strategy 2010-2020 lacked the necessary mechanisms to implement the fundamental principles of the CRPD. It also expressed the view that the new Strategy should include the development, coordination, sharing and monitoring of national disability plans.²⁸⁴

A second Spanish organisation, ONCE, also made a submission. ONCE works with people who are blind or have a visual impairment. This submission was largely the same as the longer contribution made by CERMI. Like CERMI, it regarded the European Disability Strategy 2010-2020 as a 'milestone' in the way disability policies were addressed. However, it felt that both the Strategy and the way in which it was executed had suffered from deficiencies, which should be addressed in the future.²⁸⁵

A third Spanish organisation, COCEMFE, paid particular attention to the need for a much stronger gender dimension, addressing the situation of women with disabilities in the new Strategy. In its view, this should include collection of data disaggregated by sex; inclusion of gender and disability indicators in studies conducted by Eurostat and evaluations of the European Disability Strategy; positive action, to reduce the inequalities experienced by women with disabilities; and addressing issues that

²⁸¹ Feedback from: MHE, 26 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14559 en?p id=305847.

Feedback from: COFACE Families Europe, 25 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14531_en?p_id=305847.
 Feedback from: Social Economy Europe, 26 October 2018, available at: <a href="https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14531_en?p_id=305847.

²⁸³ Feedback from: Social Economy Europe, 26 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14558 en?p id=305847.

²⁸⁴ Feedback from: CERMI, 19 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14409 en?p id=305847 and Feedback from: CERMI, 26 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14560 en?p id=305847.

Feedback from: Grupo Social ONCE, 26 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14563_en?p_id=305847.

particularly affect women, such as gender-based violence, and sexual and reproductive rights. It also called for the development of a disability strategy in European development cooperation.²⁸⁶

The Slovakian organisation, OZ Bez bariéry – Národná platforma proti bariéram, identified several priorities for the upcoming evaluation. Among other issues, it recommended undertaking detailed impact assessments in a number of areas, including at Member State level.²⁸⁷

3.1.7 The 2019 Survey of Civil Society Organisations and Public Consultation on the Implementation of the European Disability Strategy

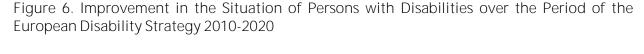
The European Commission organised a public consultation on the implementation of the European Disability Strategy 2010-2020 in 2019. The consultation ran between 31 July and 13 November 2019, and received 2,547 responses, which is considerably more than the 2009 consultation (336 responses) and the 2015/2016 consultation (1,518 responses). However, not all respondents addressed all questions. Nevertheless, this high response rate indicates a greater awareness of the Strategy amongst individuals and stakeholders, and greater engagement with the Strategy.

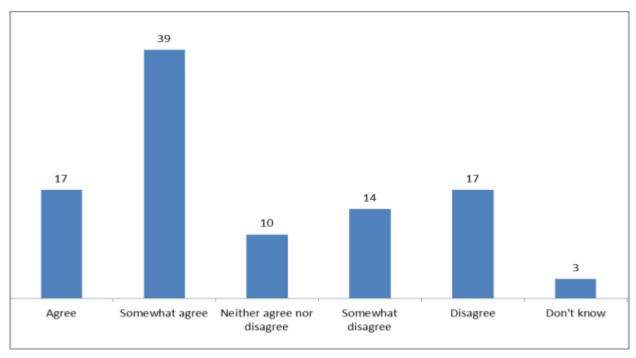
Prior to launching this open consultation, DG EMPL (within the Commission) also organised two surveys relating to the evaluation of the current Strategy. These were directed at CSOs and representatives of Member States respectively. Some information on the findings of these surveys were presented at the European Day of Persons with Disabilities in November 2019. The information presented here is therefore based on the information made available at the European Day. In addition, the responses of some DPOs and CSOs to the public consultation were published online, and these are briefly presented below.

The public consultation addressed several important issues related to the assessment of the European Disability Strategy 2010-2020. One issue that was addressed was whether the situation of people with disabilities had improved over the lifetime of the Strategy. 56% of respondents agreed, or somewhat agreed, that the situation had improved, although this does not necessarily imply that the Strategy was regarded as the cause of the improvement. Many other important developments have occurred over the relevant period, not least of all the ratification by Member States of the CRPD, and this may have been a relevant factor for some respondents. 31% of respondents disagreed, or somewhat disagreed, with the statement that the situation had improved. These findings are presented below in figure 6 below.

²⁸⁷ Feedback from: OZ Bez bariéry – Národná platforma proti bariéram, 9 October 2018, available at: https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-4958882/feedback/F14300 en?p id=305847.

²⁸⁸ The information is based on a PowerPoint presented at the European Day of Persons with Disabilities in November 2019, entitled 'Study Supporting the Evaluation of the European Disability Strategy (2010-2020)'. It was presented by ICF, which is the organisation carrying out the final evaluation of the Strategy. The PowerPoint slides are on file with the authors of this study.



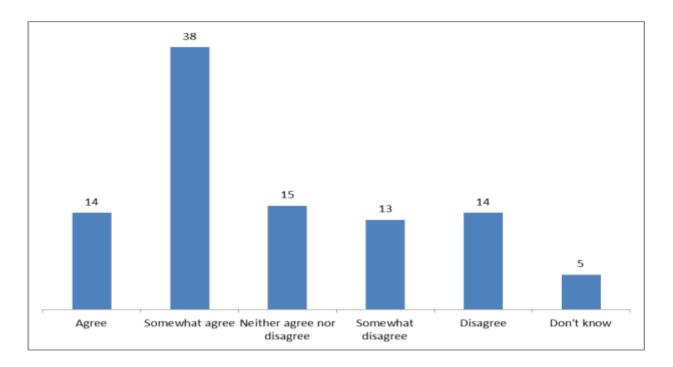


Question: Overall, has the situation for persons with disabilities improved over the last 10 years in your Member State? Public consultation, N = 1944.

Source: PowerPoint accompanying the presentation by Dr. Katerina Mantouvalou of ICF on the Study supporting the Evaluation of the European Disability Strategy, presented on 28 November 2019 at the European Day of Persons with Disabilities, Brussels.

Respondents to the consultation were also asked whether, in their view, the European Disability Strategy 2010-2020 had led to improvements in the situation of persons with disabilities in their Member State. This question was therefore specifically linked to the impact of the Strategy. 52% of respondents agreed, or somewhat agreed, that the Strategy had led to improvements at the national level; while 27% disagreed, or somewhat disagreed, that this was the case. These findings are presented below in figure 7.

Figure 7. Contribution of the European Disability Strategy 2010-2020 to Change



Question: Overall, the disability strategy has helped to improve the situation for persons with disabilities in your Member State? Public consultation, N= 1052.

Source: PowerPoint accompanying the presentation by Dr. Katerina Mantouvalou of ICF on the Study supporting the evaluation of the European Disability Strategy, presented on 28 November 2019 at the European Day of Persons with Disabilities, Brussels.

Almost half of respondents thought that EU initiatives had helped to improve the situation of persons with disabilities in their Member State over the previous 10 years. In contrast, 25% of respondents felt that EU initiatives had not had this effect. These findings are presented in figure 8 below.

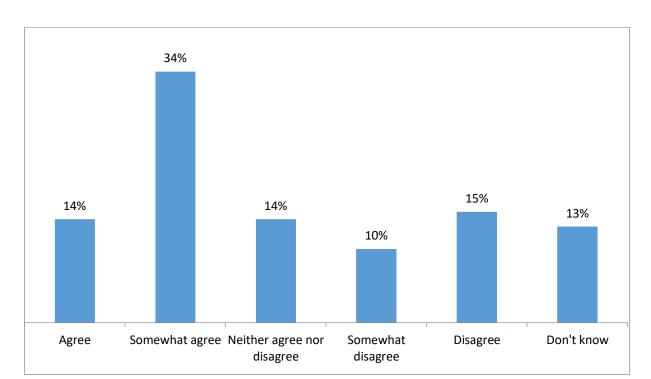


Figure 8. EU Initiatives have Helped to Improve the Situation of Persons with Disabilities over the Past 10 Years

Question: Overall, EU initiatives have helped to improve the situation for people with disabilities in the last 10 years in your Member State? Public consultation, N=1944.

Source: PowerPoint accompanying the presentation by Dr. Katerina Mantouvalou of ICF on the Study supporting the evaluation of the European Disability Strategy, presented on 28 November 2019 at the European Day of Persons with Disabilities, Brussels.

The public consultation also asked respondents to identify factors which had influenced the effectiveness of the Strategy. The most important factor which was identified as contributing to the progress of the Strategy was the political and legal impact of the CRPD, which was identified by 23% of respondents as a positive factor. Other important factors identified as having contributed to progress were: advocacy by interest groups and NGOs (identified by 20% of respondents); EU funding (17% of respondents); EU legislative activities (15% of respondents); and awareness-raising activities (13% of respondents). Respondents also identified factors which had hampered progress. The most important factor identified as hindering progress was limited understanding by policy makers of disability-related issues (identified by 28% of respondents). Other factors hindering progress identified in the consultation were: limited political will (identified by 24% of respondents); insufficient involvement of persons with disabilities in decision-making processes (22% of respondents); limited human and financial resources (21% of respondents); and limited public awareness (17% of respondents).

The eight priority areas of action covered in the Strategy were regarded as relevant for future work by the majority of respondents (N= 1052). With the exception of external action, all areas of action were regarded as relevant for future activities by between 74% and 78% of respondents, indicating quite a high level of support for further action in these seven areas. External action was regarded as having an ongoing relevance by a noticeably smaller number of respondents: only 55% of respondents thought that this was the case. The consultation also asked respondents to identify specific issues which should be considered in future work (N= 1401). Many of the issues identified as relevant for the future, such as accessibility of buildings and public services, independent living and inclusion in the community, work and employment, health, equality and non-discrimination, and inclusive education and training, clearly fall within the eight priority areas of action in the current Strategy, and this reinforces the view that such areas should be covered in the future. However, some issues, such as ageing and disability (identified by 51% of respondents as a relevant issue); children with disabilities and their families (identified by 49% of respondents as a relevant issue); and housing (identified by 35% of respondents as a relevant issue) perhaps have a lower profile within the current Strategy.

The survey, carried out by DG EMPL, of CSOs was responded to by 87 organisations, and also revealed relevant findings. Regarding EU funding for the current Strategy, only 7% of respondents somewhat agreed with the statement that EU funding to support the European Disability Strategy 2010-2020 had been adequate and proportionate. 74% of respondents disagreed, or somewhat disagreed, with that statement, indicating significant concern amongst civil society regarding the funding of the Strategy.

3.1.8 Views of Academics on the European Disability Strategy 2010-2020

The adoption of the European Disability Strategy 2010-2020 was deemed by Broderick and Ferri to signal 'a turning point in the ongoing process of creating a coherent and comprehensive EU policy framework on disability', on account of the fact that it identified 'cross-cutting EU-level actions', which, combined with national measures, were 'designed to empower people with disabilities and to ensure their inclusion in mainstream society'.²⁸⁹ According to Hosking, 'the objective of EU disability policy is to promote social inclusion by promoting equality through a rights-based policy', and the current Strategy 'does not propose any changes to this overall objective'; however 'it updates the range of activities which will be taken in pursuit of this objective'.²⁹⁰

Waddington highlighted the fact that the 2010-2020 Strategy is 'a form of "soft-law" and programmatic in nature'.²⁹¹ In a similar vein, Hosking viewed the European Disability Strategy 2010-2020 as representing 'a high-level statement of the objectives and subject areas of EU disability policy'.²⁹² He noted that the current Strategy updated 'many of the discrete objectives' which had featured in 'earlier

²⁸⁹ Broderick, A. and Ferri, D., *International and European Disability Law and Policy: Text, Cases and Materials*, Cambridge University Press, Cambridge, 2019, p. 365.

²⁹⁰ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 96.

Waddington, L., 'The European Union' in Waddington, L. and Lawson, A. (eds.), *The UN Convention on the Rights of Persons with Disabilities in Practice: A Comparative Analysis of the Role of Courts*, Oxford University Press, Oxford, 2018, pp. 131-152, p. 136.

²⁹² Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 80.

versions' of EU disability policy and also introduced some new ones.²⁹³ On the whole, he affirmed that the current Strategy 'continues the well-established EU approach to disability', which has guided the Union 'for over a decade'.²⁹⁴

According to Hosking, the thematic structure and content of the European Disability Strategy 2010-2020 'reflect commitments the EU has undertaken by its adherence to the CRPD', and the eight key priority areas of action in the Strategy 'reflect previous EU policy themes', as well as the substance of 'the CRPD, resolutions of the Council, Commission communications, Council of Europe disability policy and the results of a widescale public consultation'. Scholars such as Broderick, Charitakis, Ferri and Giannoumis have remarked on the particularly strong focus in the current Strategy on accessibility. In that regard, Charitakis noted that 'the European Disability Strategy 2010-2020 reaffirms the commitment of the EU on disability and accessibility. It also revises the priorities of the EU in relation to disability accessibility by putting more emphasis on accessibility of goods and services in the Internal Market'. While the eight priority areas of the 2010-2020 Strategy reflect several of the CRPD's provisions, Lawson rightly pointed to the fact that the eight areas for action set out in the current Strategy 'may not permit sufficiently broad scope for fulfilling the EU's obligations to implement the CRPD'.

In terms of the theoretical framework of the current Strategy, Priestley highlighted that the 2010-2020 Strategy's aspiration to create an open and accessible society follows the 'broadly conceived social model approach'. Similarly, Hosking noted that the 2010-2020 Strategy 'retains, without modification, the EU's well-established form of the social model which locates disability at the intersection of impairment, the individual's response to that impairment and the social environment'. He also affirmed that mainstreaming is a strong feature of the Strategy, in each of the eight themes or priority areas, and is 'perhaps the most frequently applied strategy set out in the

²⁹³ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 74.

²⁹⁴ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 98.

²⁹⁵ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 78.

²⁹⁶ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 80.

²⁹⁷ See generally Charitakis, S., 'An Introduction to the Disability Strategy 2010-2020, with a Focus on Accessibility', Ars Aequi, Vol. 1, pp. 28-35, available at: http://www.nuigalway.ie/dream/downloads/an_introduction_to_the_disability_strategy_20102020_with_a_focus_on_accessibility.pdf. See also Ferri, D, and Giannoumis, A., 'A Reevaluation of the Cultural Dimension of Disability Policy: The Impact of Digitization and Web Accessibility' Behavioral Sciences and the Law, Vol. 32, No 1, 2014, pp. 33–51. Broderick, A. and Ferri, D., International and European Disability Law and Policy: Text, Cases and Materials, Cambridge University Press, Cambridge, 2019, p. 365.

²⁹⁸ Charitakis, S., 'An Introduction to the Disability Strategy 2010-2020, with a Focus on Accessibility', *Ars Aequi*, Vol. 1, pp. 28-35, pp. 34-35.

Lawson, A., 'The European Union and the Convention on the Rights of Persons with Disabilities: Complexities, Challenges and Opportunities', in Della Fina, V., Cera R. and Palmisano, G. (eds.), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*. Springer, Berlin, 2017, pp. 61-76, p. 72.

³⁰⁰ Priestley, M., 'We're all Europeans now! The Social Model of Disability and European Social Policy' (adapted from Barnes, C. and Mercer, G. (eds.)), The Social Model of Disability: Europe and the Majority World), The Disability Press, Leeds, 2005, pp. 17-31, p. 25, available at: https://disability-studies.leeds.ac.uk/wp-content/uploads/sites/40/library/Barnes-EMW-Chapter-2.pdf. ³⁰¹ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 96.

Implementation Plan' (the list of actions that accompanied the Strategy when it was adopted in 2010).302

Hosking asserted that, for some time, the European Commission 'has made use of the same broad range of policy instruments in pursuit of EU disability policy', which can be grouped into seven categories – 'legislation, research and analysis, mainstreaming, capacity building, employment and awareness-raising'.³⁰³ Although the current Strategy only refers to four general sets of implementation instruments – awareness-raising; financial support; statistics, data collection and monitoring; and mechanisms required by the UN Convention – 'the full range of instruments applied to disability policy in previous years is found in the Implementation Plan for the first five years of the Strategy', according to Hosking.³⁰⁴ In a similar vein, Perju affirmed that the Strategy 'details a comprehensive approach that requires reliance on both soft and hard law measures' to achieve its goals in a wide range of fields.³⁰⁵ Hosking considered that the Implementation Plan is an 'important' policy instrument, and affirmed that there is 'consistency' among the subject matters which are included in it.³⁰⁶ He pointed out that 'previous policy programs had (mainly, though not exclusively) a strong focus on employment and accessibility in relation to transportation and the built environment', whereas the European Disability Strategy 2010–2020 'adopts a wider approach articulated by eight interconnected areas of action'.³⁰⁷

Hosking also highlighted that, for the first time, the Commission 'explicitly acknowledged the multidimensionality of disability discrimination' in the European Disability Strategy 2010-2020, by committing itself to 'pay attention to the cumulative impact of discrimination that people with disabilities may experience on other grounds, such as nationality, age, race or ethnicity, sex, religion or belief or sexual orientation'. Even if it is only an 'oblique reference to multidimensionality' and 'an undefined commitment', 'the contribution of an individual's age, class, race, gender or sexual orientation to the disabled experience needs to be an integral part of any adequate model of disability', and is something which has been absent from EU disability policy in the past. 309

With regard to implementation and monitoring of the 2010-2020 Strategy, Flynn noted that the current Strategy 'makes a number of important commitments', 310 including that it 'highlights the importance

³⁰² Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 85.

³⁰³ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 82.

Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 82.

³⁰⁵ Perju, V., 'Impairment, Discrimination and the Legal Construction of Disability in the European Union and the United States', *Cornell International Law Journal*, Vol. 44, No 2, 2011, pp. 279-348, p. 305.

³⁰⁶ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 84.

Ferri, D. and Giannoumis, A., 'A Reevaluation of the Cultural Dimension of Disability Policy: The Impact of Digitization and Web Accessibility *Behavioral Sciences and the* Law, Vol. 32, No 1, 2014, pp. 33–51, p. 34. See further the arguments of O'Mahony, C. and Quinlivan, S., The EU Disability Strategy and the Future of EU Disability Policy, in Ferri, D. and Broderick, A., *Research Handbook on EU Disability Law* (Edward Elgar, forthcoming, 2020).

³⁰⁸ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 84.

Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 96.

³¹⁰ Flynn, E., From Rhetoric to Action: Implementing the UN Convention on the Rights of Persons with Disabilities, Cambridge University Press, Cambridge, 2011, p. 69.

of gathering data on the experiences of people with disabilities and using this to measure progress' in achieving the Strategy's aims both at the Commission and Member State levels.³¹¹

Priestley pointed to the fact that implementation of the 2010-2020 Strategy 'demands substantial structural investment'³¹² – investment which was not always in place during the course of the current Strategy, as noted at several junctures above. Other concerns have been voiced by scholars about the implementation of the Strategy, including the fact that the current Strategy 'is essentially a Commission strategy and not an EU strategy with high profile backing and cross-institution commitment', according to Lawson. Drawing on EDF's answers to the list of issues on the EU's initial report to the UN Committee on the Rights of Persons with Disabilities, Lawson further noted that whilst the 2010-2020 Strategy 'envisages collaboration with other EU institutions, it is not a strategy that shapes their work or sets out their disability-related commitments'.

In terms of concrete impacts of the European Disability Strategy 2010-2020, Hosking expressed the view that the Strategy had 'the potential for bringing about substantial social change'. However, 'improvements have been slow to materialize'. He noted that the:

disappointing pace of change most likely reflects the limitations of the policy instruments available to the EU, the complexity of the subject matter and the difficulty in making the structural changes which are required to bring about significant increase in the social inclusion of disabled people.³¹⁷

It has also been pointed out that there are 'varying degrees of resistance to the rights-based policy the Commission has championed, or at least fears about the impact it will have on social protection policies and the economy'. 318

On the whole, Flynn affirmed that the current European Disability Strategy has 'significant potential, both in terms of facilitating learning among [M]ember [S]tates and also in embedding the CRPD as the

³¹¹ Flynn, E., From Rhetoric to Action: Implementing the UN Convention on the Rights of Persons with Disabilities, Cambridge University Press, Cambridge, 2011, p. 69.

³¹² Priestley, M., 'We're all Europeans now! The Social Model of Disability and European Social Policy' (adapted from Barnes, C. and Mercer, G. (eds.), The Social Model of Disability: Europe and the Majority World), The Disability Press, Leeds, 2005, pp. 17-31, p. 25, available at: https://disability-studies.leeds.ac.uk/wp-content/uploads/sites/40/library/Barnes-EMW-Chapter-2.pdf.

³¹³ Lawson, A., 'The European Union and the Convention on the Rights of Persons with Disabilities: Complexities, Challenges and Opportunities', in Della Fina, V., Cera R. and Palmisano, G. (eds.), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*, Springer, Berlin, 2017, pp. 61-76, p. 73.

³¹⁴ See: http://www.edf-feph.org/newsroom/news/way-final-dialogue-between-eu-un-crpd-committee.

³¹⁵ Lawson, A., 'The European Union and the Convention on the Rights of Persons with Disabilities: Complexities, Challenges and Opportunities', in Della Fina, V., Cera R. and Palmisano, G. (eds.), *The United Nations Convention on the Rights of Persons with Disabilities: A Commentary*, Springer, Berlin, 2017, pp. 61-76, p. 72.

³¹⁶ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 74.

³¹⁷ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, pp. 86-87.

Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, pp. 87.

template for national disability strategy at both Commission and individual member state levels'.³¹⁹ Hosking noted, however, that the potential for the current Strategy to bring about significant improvements to the social situation of disabled people 'varies, depending on the Member State in question'.³²⁰ In his view, the 'full engagement of the Member States' is essential for the Strategy's implementation.³²¹

Hosking concluded that, with the adoption of the European Disability Strategy 2010-2020, it seems likely that disability 'will retain its own policy identity' in the EU for at least the next decade. However, he emphasised the vital importance of capacity-building of DPOs, and of seeking the participation of disabled people at regional and local levels, in the design and implementation of all programmes and projects supported by EU funds. Under the design and implementation of all programmes and projects supported by EU funds.

3.1.9 The Final Evaluation of the European Disability Strategy 2010-2020

The organisation carrying out the final evaluation of the European Disability Strategy 2010-2020, ICF, presented some preliminary findings at the European Day of Persons with Disabilities in November 2019. The information presented here is therefore based on the information made available at the European Day.³²⁴

The evaluation is intended to assess the effectiveness, efficiency, relevance, coherence and added value of the Strategy, and also to provide conclusions and recommendation to support the development of a new Strategy. Amongst the sources of information drawn on by ICF when evaluating the current Strategy are the results of the public consultation carried out by the European Commission and DG EMPL's survey of CSOs, which were both referred to above, as well as a mapping of the actions taken by the EU, EU level stakeholder interviews, interviews and focus groups at Member State level, and further analysis and consultation. In terms of assessing implementation, the evaluation pays particular attention to identifying which actions contained in the 2010-2015 list of actions which accompanied the adoption of the current Strategy have, in fact, been implemented. The relevant information regarding actions taken by the EU is presented below in section 3.1.10.

In the view of ICF, the current Strategy is considered to have strong internal coherence. However, while the Strategy is regarded as generally coherent with EU policy, that coherence is also hindered by limited inter-institutional coordination mechanisms. ICF also felt that there appeared to be less coherence in some areas due to unequal implementation. Nevertheless, ICF feels that the Strategy had contributed

³¹⁹ Flynn, E., *From Rhetoric to Action: Implementing the UN Convention on the Rights of Persons with Disabilities*, Cambridge University Press, Cambridge, 2011, p. 78.

³²⁰ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 74.

³²¹ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 74.

³²² Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), *European Yearbook of Disability Law*, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 95.

Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 96.

³²⁴ This information is based on a PowerPoint entitled 'Study Supporting the Evaluation of the European Disability Strategy (2010-2020)', presented by ICF, which is the organisation carrying out the final evaluation of the Strategy. The PowerPoint slides are on file with the authors of this study.

to actions at national level through advocacy, awareness- and pressure-generating effects, but there was scope to add value to the Strategy through mutual learning, peer reviews and sharing of good practice.

ICF feels that the Strategy has contributed to a change in the overall policy discourse and a move towards a human rights approach to disability. It notes that stakeholders appreciated the Strategy as an important tool contributing to the implementation of the CRPD, and as having influenced the development of important legislative instruments. However, ICF also believes that there is room for improvement. It notes that the lack of a baseline and a monitoring framework for the Strategy made it difficult to monitor implementation continuously, and that it is necessary to consider the implementation of related policies and measures at Member State level in order to assess the long-term impact of the Strategy. It feels that the coherence of the Strategy with other EU policies may have benefitted 'from greater mainstreaming through dedicated responsible experts' in the EU institutions, 325 and that a dedicated budget for the implementation of the Strategy would have enabled more actions to have been implemented.

3.1.10 The Current State of Implementation of the European Disability Strategy 2010-2020

Both the Commission's Progress Report and the information currently available regarding the final evaluation of the European Disability Strategy 2010-2020 reveal the wide range of instruments adopted, and the action taken, at EU level to implement the Strategy. The 2017 Progress Report clearly identifies the key achievements and actions taken in each area, and it appears that the Final Evaluation Report will also pay particular attention to such issues. ICF, which is carrying out the final evaluation, presented some preliminary findings at the European Day of Persons with Disabilities in November 2019.³²⁶ As well as presenting some findings from the public consultation and survey of CSOs, it addressed the extent to which the EU has adopted the actions contained in the 2010-2015 list of actions which accompanied the adoption of the Strategy in 2010. That information is presented in figure 9 below.

³²⁵ The information is based on a PowerPoint presented entitled 'Study Supporting the Evaluation of the European Disability Strategy (2010-2020)', presented by ICF, which is the organisation carrying out the final evaluation of the Strategy. The PowerPoint slides are on file with the authors of this study.

The information is based on a PowerPoint presented entitled 'Study Supporting the Evaluation of the European Disability Strategy (2010-2020)', presented by ICF, which is the organisation carrying out the final evaluation of the Strategy. The PowerPoint slides are on file with the authors of this study.

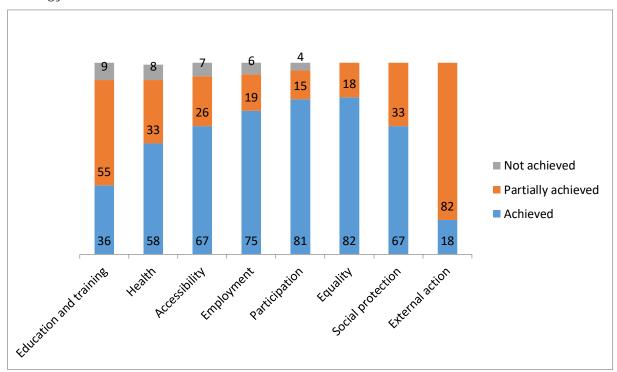


Figure 9. EU Level Actions Implemented in the 8 Priority Areas of the European Disability Strategy 2010-2020

Source: PowerPoint accompanying the presentation by Dr. Katerina Mantouvalou of ICF on the Study supporting the evaluation of the European Disability Strategy, presented on 28 November 2019 at the European Day of Persons with Disabilities, Brussels.

For most areas, the majority of actions listed for the 2010-2015 period have been achieved, or implemented in full. This is only not the case for the actions specified in the fields of education and training, and external action. However, the vast majority of listed actions for all eight priority areas of the Strategy have been achieved or partially achieved, and only a fairly small number – ranging between 9% and 4% – were not achieved at all.

The quantitative dimension to implementation has therefore been identified and evaluated to quite some degree in both the 2017 Progress Report and the upcoming final evaluation. However, it is worth recalling that a second list of actions covering the period 2016-2020 was never adopted, and therefore a clear set of goals and activities for this second period, against which an evaluation can take place, is not available. Moreover, the lack of an initial baseline study has also hampered quantitative, as well as qualitative, evaluations. In the view of the authors of this study, a further challenge is the difficultly, in some cases, in linking EU action to the European Disability Strategy 2010-2020. Not all EU action which is relevant to people with disabilities is explicitly linked to the Strategy and, in the absence of a list of comprehensive, planned actions covering the whole period of the Strategy, it can be difficult to establish a link between a particular action and the Strategy, and to know whether the Strategy had any role to play in the adoption of the relevant action.

3.2 Assessing the Impact of the European Disability Strategy 2010-2020

A Briefing Report prepared for the European Parliament in 2017 accurately identified two challenges in assessing the impact of the European Disability Strategy 2010-2020, especially in the short-term, namely that: i) the Strategy is 'a comprehensive, long-term policy framework' whose implementation is challenging given its cross-cutting nature and the multitude of measures involved; and that ii) many of the measures involved are intended to support or complement national level action, meaning that a great deal of implementation lies with the Member States. 327 The Briefing Report therefore argued that this implies that the impact of the Strategy 'may not be immediately tangible'. 328 This view was also reflected by the evaluators who carried out the mid-term review of the European Disability Strategy 2010-2020, who stated that even if the list of actions (2010-2015) linked to the Strategy 'had generated a large number of outputs, few conclusions could be drawn about the actual impact on the situation of people with disabilities'. 329 Hosking, in an article in the European Yearbook of Disability Law, argued that some actions linked to the Strategy were likely to require a long time frame before 'widespread noticeable improvements occurs', 330 while the Commission emphasised – already in 2010 - that the impact of some elements of the Strategy 'can take a long time to materialise'. 331 Overall, there can be a significant time lag before any positive impact of EU actions linked to the implementation of the European Disability Strategy 2010-2020 on the lives of persons with disabilities in Europe becomes apparent, and an accurate assessment regarding all the achievements of the Strategy cannot yet be made, although some initial conclusions can be drawn.

Furthermore, as noted above, both the Commission's 2017 Progress Report and the final evaluation pay relatively little attention to assessing the impact or effectiveness of the actions taken to implement the European Disability Strategy 2010-2020, although they do identify the measures adopted in the framework of the Strategy. This means that the impact, significance and effectiveness of the large number of actions has hardly been assessed. The fact that a particular instrument has been adopted, and that this is linked to the Strategy, does not mean that it will necessarily lead to positive changes to the lives of people with disabilities. Therefore, it is important to not only identify what action has been taken, but also what impact, if any, that has had on the lives of people with disabilities. In a very broad way, the views of individuals and organisations were sought on this issue in the 2019 public consultation, and some cautiously positive results were revealed, with 52% of 1,052 respondents

European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, p. 7, available at: https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS BRI(2017)603252.

³²⁸ European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, p. 7.

European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, p. 7.

³³⁰ Hosking, D.L., 'Staying the Course: The European Disability Strategy 2010-2020', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 4, pp. 73-98, p. 98.

³³¹ European Commission, Commission Staff Working Document Accompanying the Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, SEC(2010) 1323 final, Brussels, 15 November 2010, p. 14, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010SC1323&qid=1576888351724&from=EN.

³³² European Parliament, Briefing – Implementation in Action: The European Disability Strategy 2010-2020 (Author: Irmgard Anlmayer), European Parliamentary Research Services, 10 July 2017, PE 603.252, p. 9, available at: https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2017)603252.

stating that the Strategy had contributed to an improvement in the situation of persons with disabilities in their Member State (see figure 8 above).

It is also worth noting that ANED has monitored the situation of persons with disabilities in the EU using data from EU-SILC. This data provides some information on the (changing) situation of persons with disabilities, compared to persons without disabilities, in key areas covered by the Strategy. The most relevant data compiled by ANED from the perspective of the European Disability Strategy 2010-2020 relates to employment and education, which are both amongst the eight priority areas of action in the current Strategy. The data reveals relatively little change in the situation of persons with disabilities, relative to persons without disabilities, over the covered period (2008-2017). ANED has also compiled data on the risk of poverty.

In terms of changes in the employment situation of persons with disabilities during the first seven years of the European Disability Strategy 2010-2020, the data collated by ANED reveals a slight percentage increase in the overall employment rate of persons with disabilities. This is also the case for the overall employment rate of people without disabilities, meaning that there has been an increase in the overall employment rate of persons with and without disabilities over this period. However, persons with disabilities remain more likely to not be in employment than persons without disabilities. In 2012, there was a 16.6 percentage gap in the employment rate of people with disabilities compared to all people (both with and without disabilities); by 2016, which is the last year for which ANED has presented the relevant data, that gap had increased to 18.6%. Data is also available on the employment rate of people with and without disabilities between 2014 and 2017. In 2014, 47.8% of people with disabilities were in employment in the EU compared to 68.1% of people without disabilities, indicating a 20.3 percentage gap. By 2017, the employment rate for people with disabilities had risen slightly to 49.6%, whilst the relevant figure was 70.5% for people without disabilities, indicating a slightly increased percentage gap of 20.9. Overall, the data does not reveal any improvement in the employment situation of persons with disabilities compared to persons without disabilities, although the rate has increased slightly for both groups over the relevant period. This data is presented in figure 10 below.

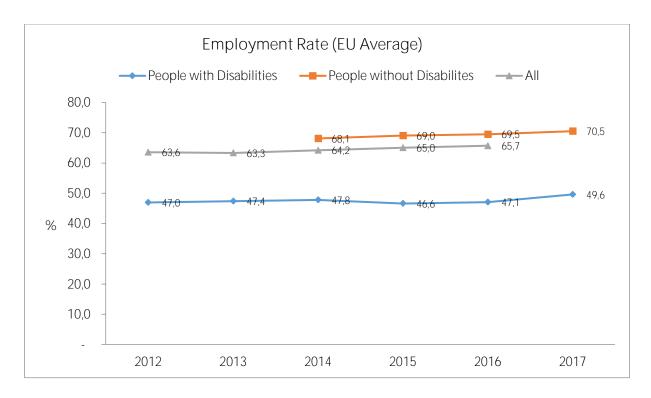


Figure 10. Employment Rate (EU Average)

Sources: Stefanos Grammenos, *European Comparative Data on Europe 2020 & People with Disabilities*, report produced on behalf of ANED, Final Report, December 2018; and Master tables for updating tables in the ANED 2018-19 EU2020 country fiches. The above figure is an interpretation of the data provided in these two reports, and is not a reproduction of the figures or tables found in those reports.

The data is derived from the EU-SILC User Database 2016 and the EU-SILC User Database 2017 – version of March 2019. The data on the employment rate of all persons was only reported for 2012-2016, and the data on employment rate for persons without disabilities was only reported for 2014-2017.

ANED has also presented data on the percentage of people with and without disabilities who have completed tertiary education in the age group 30-39. This reveals that people with disabilities are significantly more likely to not complete tertiary education than people without disabilities. In 2008, 18.7% of people with disabilities in the relevant age group had completed tertiary education, compared to 31.1% of people without disabilities, revealing a 12.4 percentage gap. Figures for both groups have risen year on year, 333 but people with disabilities remain significantly less likely to have completed tertiary education than people without disabilities. By 2017, the percentage gap had fallen slightly to 10.5%, with 30.9% of people with disabilities in the age group having completed tertiary education, compared to 41.4% of people without disabilities. The data therefore reveals that, in 2017, both people with and without disabilities were much more likely to have completed tertiary education by the age of 39, compared to the situation in 2008, and that the difference between people with and

³³³ With the exception of the years 2016 and 2017 for the group people without disabilities, with the 2017 figure showing a slight fall compared to the 2016 figure.

without disabilities in this respect had slightly reduced over this period, but there remained a significant gap. This information is presented in figure 11 below.

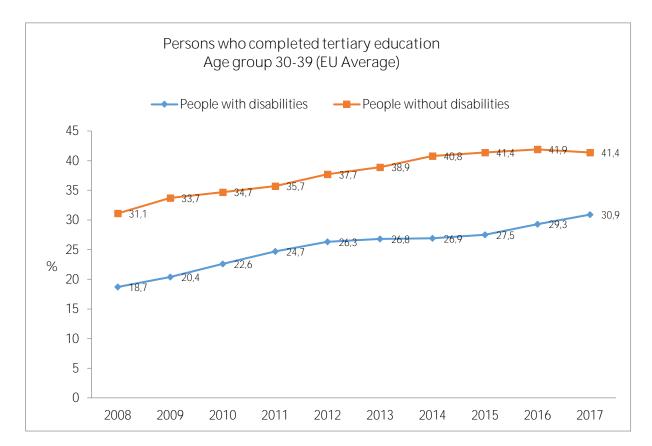


Figure 11. Persons who Completed Tertiary Education, Age Group 30-39 (EU Average)

Sources: Stefanos Grammenos, European comparative data on Europe 2020 & People with disabilities, report produced on behalf of ANED, Final Report, December 2018; and Master tables for updating tables in the ANED 2018-19 EU2020 country fiches. The above figure is an interpretation of the data provided in these two reports, and is not a reproduction of the figures or tables found in those reports.

The data is derived from the EU-SILC User Database 2016 and the EU-SILC User Database 2017 – version of March 2019.

Note: The figures for 2017 refer to people with limitations and people without limitations.

ANED has also presented data concerning the overall risk of poverty and exclusion faced by people with disabilities and people without disabilities (aged 16-65 and aged 65+). This data can be relevant for most of the priority areas covered by the European Disability Strategy 2010-2020, although it seems particularly relevant for those of participation and social protection. Individuals at risk of poverty and exclusion are less likely to be in a position to participate in society and more likely to be in need of social protection.

People in the age group 16-64 are more likely to be at risk of poverty and exclusion than people aged over 65. This applies to both people with and people without disabilities, although people with disabilities are much more likely to be at risk. The risk of experiencing poverty or exclusion seems to have changed surprisingly little over the period 2008-2017 for both groups. In 2008, 34.9% of people with disabilities aged 16-64 were at risk of poverty or exclusion, compared to 20.5% of people without disabilities, revealing a 14.4 percentage gap. By 2017, the relevant figures were 35.7% (people with disabilities) and 20.8% (people without disabilities), revealing a 14.9 percentage gap. The situation therefore does not seem to have changed over the relevant period. This information is presented in figure 12 below.

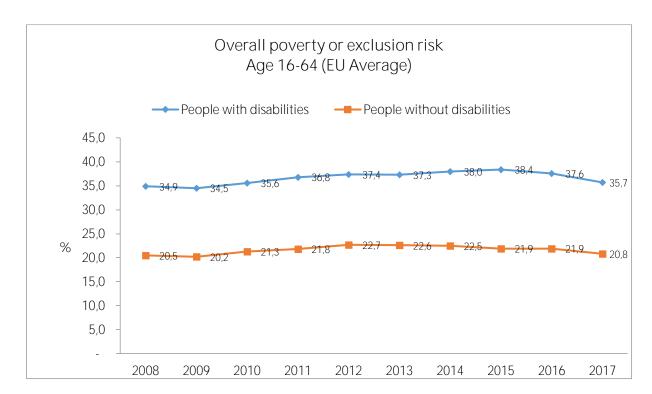


Figure 12. Overall Poverty or Exclusion Risk, Age Group 16-64 (EU Average)

Sources: Stefanos Grammenos, European comparative data on Europe 2020 & People with disabilities, report produced on behalf of ANED; Final Report, December 2018; and Master tables for updating tables in the ANED 2018-19 EU2020 country fiches. The above figure is an interpretation of the data provided in these two reports, and is not a reproduction of the figures or tables found in those reports.

The data is derived from the EU-SILC UDB 2016 and the EU-SILC UDB 2017 – version of March 2019.

Note: The figures for 2017 refer to people with limitations and people without limitations.

In contrast to the situation of people aged 16-65, the risk of poverty and exclusion for people aged 65+ has decreased between 2008 and 2017. Again, this is the case for both people with and people without disabilities. However, people with disabilities aged 65+ are more likely than people without disabilities aged 65+ to be at risk of poverty and exclusion, and whilst the absolute risk for both groups has

declined, the relative difference between the two groups has not changed to any degree. In 2008, 25.9% of people with disabilities aged 65+ were at risk of poverty or exclusion, compared to 20.2% of people without disabilities in this age group, revealing a percentage gap of 5.9%. By 2017, the percentage gap had increased slightly to 6.3%, although the risk for both groups had fallen (21.5% for people with disabilities compared to 15.2% for people without disabilities). The data therefore reveals an overall improvement which has benefited people with and without disabilities to a fairly similar degree, but which has not addressed the greater likelihood of older people with disabilities to be at risk of poverty or exclusion. This information is presented in figure 13 below.

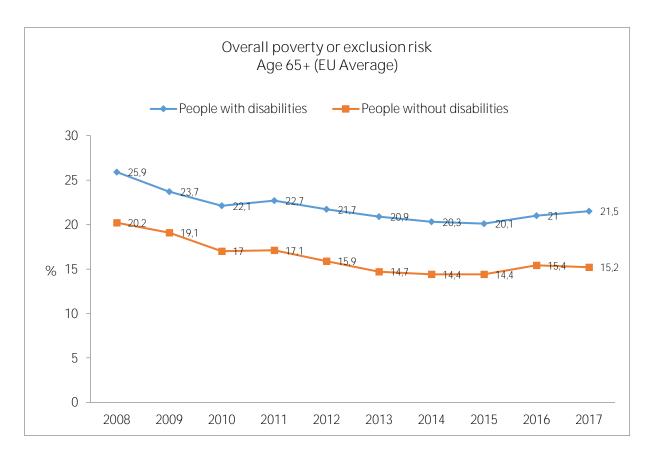


Figure 13. Overall Poverty or Exclusion Risk, Age Group 65+ (EU Average)

Sources: Stefanos Grammenos, European comparative data on Europe 2020 & People with disabilities, report produced on behalf of ANED, Final Report, December 2018; and Master tables for updating tables in the ANED 2018-19 EU2020 country fiches. The above figure is an interpretation of the data provided in these two reports, and is not a reproduction of the figures or tables found in those reports.

The data is derived from the EU-SILC User Database 2016 and the EU-SILC User Database 2017 – version of March 2019.

Note: The figures for 2017 refer to people with limitations and people without limitations.

This data reveals that, in some areas, an improvement in the situation of both people with disabilities and people without disabilities has occurred over the relevant period. This is the case for the

completion of tertiary education by people aged 30-39 and the risk of poverty or exclusion for people aged 65+. However, in some cases, no significant improvement has occurred. This is the case for the overall employment rate and the risk of poverty or exclusion for people aged 16-64. Where improvements have occurred, they have occurred across the board, and persons with disabilities have not seen their situation improve relative to persons without disabilities. This indicates that factors other than the European Disability Strategy 2010-2020, such as the general economic situation, have influenced the changing situation. In short, the Strategy has, it seems, not led to an overall improvement in the situation of persons with disabilities in these areas over the period covered by these statistics.

3.3 Achievements and Shortcomings of the European Disability Strategy 2010-2020

This next two sub-sections identify achievements and shortcomings of the current Strategy in terms of its design and implementation.

3.3.1 Achievements

The European Disability Strategy 2010-2020, in conjunction with the conclusion of the CRPD, has contributed towards embedding a human rights approach to disability in the policy discourse at EU level. The current Strategy, in combination with many other important legislative and policy developments at international and EU level, has helped to increase the awareness of disability-related issues and impacted, in a positive sense, on how the EU responds to such issues. Moreover, the high level of engagement with the latest public consultation on the Strategy reveals both the degree of awareness about the Strategy and EU action, and the importance attached to such action.

The current Strategy has contributed to the taking of many important initiatives, including significantly the adoption of legislation in the field of accessibility, related specifically to the accessibility of goods and services, ICT and transport. Legal instruments, such as the Public Sector Web Accessibility Directive³³⁴ and the EAA,³³⁵ can be expected to have a significant impact at Member State level in the long term, if implemented in full and monitored, and represent major achievements in terms of their potential to enhance accessibility for persons with disabilities. The Strategy is referenced in the preamble to both instruments. In addition, in 2010 and 2011 – shortly after the current European Disability Strategy came into effect – the EU institutions adopted further Regulations on passenger rights:³³⁶ In 2010, the EU adopted a Regulation on the rights of passengers when travelling by sea and

Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L 327/1.

³³⁵ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (European Accessibility Act) [2019] OJ L 151/7.

³³⁶ See previous Regulations in the field of transport: Regulation (EC) 1107/2006/EC 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 [2006] OJ L 204/1; Regulation (EC) 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations [2007] OJ L 315/14.

inland waterways³³⁷ (an action specifically referenced in the list of actions annexed to the current European Disability Strategy); and, in 2011, a Regulation was adopted in the context of bus and coach transport.³³⁸ The current Strategy also resulted in the launch of the Access City Award in 2010. Moreover, further standardisation mandates were adopted in the fields of accessibility³³⁹ and Design for All³⁴⁰ during the course of the current Strategy. The level of activity by the EU institutions in the field of accessibility is most likely due to the competence the EU has to act in that field and its interest in facilitating the proper functioning of the internal market. It may also be attributable to the contribution of staff in DG EMPL in helping to push forward key initiatives, such as the EAA, and indeed to the advocacy efforts of civil society organisations (CSOs). Two of these factors (the role of civil society and the interest in promoting the proper functioning of the internal market) are confirmed by Priestley in the context of the EAA, when he notes that 'this landmark legislative initiative resulted from a sustained period of lobbying from civil society supported by the accumulation of an evidence base, published in the accompanying Impact Assessment Report and supporting studies'.³⁴¹ These studies highlighted, as Priestley pointed out, how:

[...] 'differences in national legal requirements and the variety of practices used by contracting authorities, including on accessibility, constitute a barrier to cross-border public procurement' and provided the rationale for legislation, identified by Commissioner Thyssen as a barrier to 'creating a deeper and fairer internal market'. 342

In addition to legislative initiatives, several funding initiatives of the EU institutions in various areas contributed to realising the goals of the European Disability Strategy 2010-2020. For instance, in the field of external action, Bridging the Gap³⁴³ – a project funded by the Directorate-General for **International Cooperation and Development (DG DEVCO) under the thematic programme 'Global Public Goods and Challenges'** – contributed to realising the objectives of the current European Disability Strategy by facilitating the socio-economic inclusion of people with disabilities in low- and middle-income countries through more inclusive and accessible institutions and policies.

There has also been an increase in mainstreaming disability issues across a broad range of policy areas during the lifetime of the current Strategy. This is reflected at the legislative level, in instruments such

Regulation (EU) 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No. 2006/2004 [2010] OJ L 334/1.

he rights of passengers in bus and coach transport and amending Regulation (EU) Regulation 181/2011/EU of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No. 2006/2004 [2011] OJ L 55/1.

³³⁹ See M/376 Standardisation Mandate in support of European accessibility requirements for public procurement of products and services in the ICT domain; and M/420 Standardisation Mandate in support of European accessibility requirements for public procurement in the built environment.

³⁴⁰ See M/473 Standardisation Mandate to include 'Design for All' in relevant standardization initiatives; See also the recently published standard on Accessibility following a Design for All approach in products, goods and Services - extending the range of users.

³⁴¹ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 39 (footnote not included), available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 39. 343 See: https://bridgingthegap-project.eu/about-the-project/.

as the amended Audiovisual Media Service Directive,³⁴⁴ which includes an explicit reference to the CRPD and tightens up the requirement to make audiovisual media services accessible for persons with disabilities; and the Electronic Communications Code,³⁴⁵ which also pays some attention to the situation of persons with disabilities. Having said that, neither of these instruments refers to the European Disability Strategy 2010-2020, and this makes it difficult to identify a clear link between these important instruments, which mainstream disability-related issues, and the Strategy.

Another area where mainstreaming of disability has increasingly occurred is in the European Semester process. During the analysis phase of the European Semester, individual Country Reports are prepared by Commission staff for each Member State. In 2012, more than half (16) of the Commission's EU 2020 Country Reports failed to mention disability, while by 2019, almost all reports addressed disability. This reflects an increased engagement with disability mainstreaming in the European Semester process on the part of Commission staff. This increase in disability mainstreaming is also reflected in a greater number of references to disability in the Country Specific Recommendation fiches, where the references to disability rose from 3 in 2012 to 12 in 2018, and the 2019 Joint Employment Report, which contained 57 references to disability, compared to 7 in 2013. While it is not always possible to make a connection between this greater attention to disability-related issues and disability mainstreaming, and the European Disability Strategy 2010-2020, the overall picture is one of greater engagement with disability by the EU legislator and policy maker.

Furthermore, the European Disability Strategy 2010-2020 has contributed to the establishment of several important fora with a view to facilitating the engagement of key stakeholders. These include the annual Work Forum on the Implementation of the UN Convention on the Rights of Persons with Disabilities in the EU, which has been organised since 2010, and provides a valuable opportunity for mutual exchange and learning on good practices related to CRPD implementation; and the annual European Day of Persons with Disabilities. Other fora at EU level, such as the DHLG – while not established on foot of the Strategy itself – have remained important in contributing to the goals of the 2010-2020 European Disability Strategy, by serving as a forum to facilitate (among other things) dialogue between Member States on the portability of personal assistance benefits, as the current Strategy envisaged.

3.3.2 Shortcomings

Notwithstanding the achievements noted above, several shortcomings in the design and implementation of the European Disability Strategy 2010-2020 are notable.

³⁴⁴ Directive (EU) 2018/1808 of the European Parliament and the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administration action in Member States concerning the provision of audiovisual media services (amended Audiovisual Media Services Directive) in view of changing market realities [2018] OJ L 303/69.

³⁴⁵ Directive (EU) 2018/1972 of the European Parliament and of the Council establishing a European Electronic Communications Code (Recast) [2018] OJ L 321/36.

³⁴⁶ Presentation by Professor Mark Priestley to the European Economic and Social Committee, 'Disability Equality in Europe? Making it Happen', PowerPoint slides on file with authors of this study.

³⁴⁷ Presentation by Professor Mark Priestley to the European Economic and Social Committee, 'Disability Equality in Europe? Making it Happen', PowerPoint slides on file with authors of this study.

The Strategy was intended to ensure the effective implementation of the CRPD across the EU. 348 The 2015 Concluding Observations of the UN Committee on the Rights of Persons with Disabilities, which contained recommendations to the EU regarding the implementation of the UN Convention, could have prompted a reflection on both the appropriateness of the Strategy and the need for revision, in order to better achieve effective implementation. Indeed, the Commission had originally envisaged revising the Strategy mid-term, following an external evaluation, 349 and this evaluation was carried out before the UN Committee's review of the EU. However, the external evaluation and the UN Committee's Concluding Observations to the EU did not prompt such a revision, even though many stakeholders called for the adoption of a new action plan based on the recommendations of the UN Committee on the Rights of Persons with Disabilities. This was in spite of the fact that the UN Committee called for clear benchmarks and guidelines on how the recommendations in the Concluding Observations would be incorporated into the implementation of the Strategy during 2016-2020. 350

Whilst the Commission emphasised its commitment to implementing the CRPD in its 2017 Progress Report, including in light of the UN Committee's Concluding Observations, no detailed analysis was undertaken to identify the gaps between the Strategy and full compliance by the EU with the UN Convention, in light of the legal competence of the EU. Detailed benchmarks and guidelines were also not adopted, as called for by the UN Committee. In short, a full review of what action the EU needs to take to implement the CRPD, and how this relates to the current Strategy, has not been undertaken; nor have specific benchmarks and guidelines been adopted in this respect. Furthermore, for most of the current Strategy, a complete set of disaggregated indicators on disability (which comply with the CRPD) was not available, despite the implementation measures envisaged in the current Strategy. A set of draft indicators related to each area of the CRPD has recently been developed within the Bridging the Gap project, and was made available in 2019.351 Nonetheless, the lack of a complete data set on disability during the course of the current Strategy can be assumed to have been a barrier to implementation of the objectives of the European Disability Strategy 2010-2020 and those of the CRPD itself, given the importance that both instruments lay on statistics and data collection. Moreover, the lack of disaggregated indicators and data sets hindered targeted implementation of the Strategy's objectives in respect of specific groups of people with disabilities.

In addition, a gender perspective has not been adequately taken into account in the Strategy. Likewise, disability considerations have not been adequately taken into account in EU gender policies, which seems to indicate a lack of coherence between EU policies in different areas. This lack of coherence is also evident in other areas of EU policy-making, such as the Social Scoreboard, where disability indicators are absent.

Moreover, whilst the general goals and objectives of the European Disability Strategy 2010-2020 concur with the CRPD, more specificity and a targeted approach were arguably required. The lack of specificity in the current Strategy with regard to the particular actions that correspond to particular CRPD articles arguably impaired implementation of the current Strategy to some extent. In addition, no detailed analysis was conducted of the remaining gaps between the obligations of the CRPD and EU disability law and policy, in light of the competence of the EU.

³⁴⁸ European Disability Strategy 2010-2020, p. 4.

³⁴⁹ European Disability Strategy 2010-2020, p. 11.

³⁵⁰ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, UN Doc. CRPD/C/EU/CO/1, paras. 10 and 11.

³⁵¹ See: https://bridgingthegap-project.eu/crpd-indicators/.

Furthermore, as noted above, a proposed list of actions to implement the European Disability Strategy 2010-2020 covering the period 2010-2015 was published by the Commission in 2010. This list was initially intended to be updated periodically. This did not happen, and the 2017 Progress Report stated that 'all relevant actions will be continued in the period 2017-2020'. In spite of the absence of an updated list of actions, the EU did take action, particularly in the second period of the Strategy, which can be linked to the Strategy but which was not referred to in the initial list. However, the failure to adopt a detailed implementation plan (i.e. an updated list of intended actions) covering the second half of the Strategy, may suggest a more *ad-hoc* and uncoordinated approach to implementation in the second period, and may have hampered the final evaluation, as a check list of intended actions was not available for comparison with actual achievements.

Assessing the impact of the 2010-2020 Strategy, which is linked to its implementation, is also hampered by the fact that it was not accompanied by a baseline study, which could be used to identify progress, and the difficulty in attributing some EU action, and indeed Member State action, specifically to the Strategy.

A further shortcoming in terms of implementation stems from the fact that while the EU has spent a considerable amount of money on disability-related issues over the lifetime of the Strategy, through, for example, the SIF and funds supporting academic research and training, the Strategy itself did not have its own budget which could be used to support its work. In addition, there was, and still is, no formal coordination or monitoring body within the Commission regarding the Strategy, nor is there a focal point in each DG. Such bodies could have contributed to a greater mainstreaming of disability across all policy areas. In both respects, the institutional structure within the Commission for implementing the Strategy is somewhat limited.

While, as demonstrated above, several legislative and other initiatives have been pursued in the field of accessibility and, to a lesser extent, in the fields of employment and external action, the actions identified in a number of other priority areas are lagging behind in terms of implementation. Thus, progress across the priority areas of the current Strategy would seem to be uneven, especially in the fields of social protection and education. This may be attributable to the limited competence of the EU in those fields, although this would not prevent the EU from employing other non-legislative instruments to implement the current Strategy's goals in those areas.

Another issue in terms of the Strategy's implementation stems from the fact that many of the priority areas and lines of action in the current Strategy fall mainly, or partly, within the competences of the Member States. In that regard, there has been no clear delineation (between EU and Member State levels) of the actions that relate to the various competences at stake; neither has there been an alignment of the current Strategy with the various actions required under the CRPD in the field of shared competences. Priestley points out, 'where there is shared competence between the EU and Member States, the EU has an obligation to ensure that CRPD obligations are fulfilled by using all

³⁵² European Disability Strategy 2010-2020, List of Actions, p. 3 and European Disability Strategy 2010-2020, p. 11.

³⁵³ European Commission, Commission Staff Working Document, Progress Report on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final, p. 19, available at: https://ec.europa.eu/social/main.jsp?catId=1484&langId=en.

instruments at its disposal'. 354 In relation to specific areas of shared competence, however, the procedural requirements in existence at EU level for the adoption of legislative measures have proven to be a complicating factor. This can be seen, for instance, with regard to the adoption of the horizontal equal treatment Directive that was proposed by the European Commission in 2008. That proposal seeks to extend protection from discrimination based on disability (and other grounds) beyond employment – to the fields of social protection, including social security; healthcare and social housing; education; and access to and supply of goods and services, including housing. The proposal remains blocked in the Council on account of the fact that unanimity has not (yet) been reached. In 2014, the idea to use enhanced cooperation for the proposed equal treatment Directive's adoption was 'overwhelmingly rejected in the Council'.355 Recently, a communication from the Commission to the Parliament and other EU institutions has noted that for those areas still governed by unanimity, a change in procedure towards qualified majority voting or the ordinary legislative procedure 'could certainly render decision-making in the EU more timely, flexible and efficient'. The Commission took the view that 'it would be important to consider the use of the general passerelle clause to facilitate decision-making on non-discrimination', but that this would require the European Council to take a decision to that effect according to the procedure contained in Article 48(7) TEU. 357 Thus, EU law procedural requirements arguably slowed down progress with regard to certain legislative initiatives connected to the 2010-2020 Strategy.

As is evident from the assessment above, there are a number of achievements and shortcomings attaching to the design and implementation of the current European Disability Strategy and, in certain instances, it is possible to identify clear blockages and related responsibilities. The analysis above can, in turn, inform recommendations for the new, post-2020 Strategy.

Chapter 4 of this study will therefore explore the various proposals made by key actors regarding the post-2020 European Disability Strategy, with a view to putting forward the concrete recommendations of the authors of this study in chapter 5.

³⁵⁴ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 60, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

³⁵⁵ European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, More Efficient Decision-making in Social Policy: Identification of Areas for an Enhanced Move to Qualified Majority Voting COM(2019) 186 final, Strasbourg, 15 April 2019, p. 8, available at: https://ec.europa.eu/social/BlobServlet?docId=21081&langld=en.

³⁵⁶ European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, More Efficient Decision-making in Social Policy: Identification of Areas for an Enhanced Move to Qualified Majority Voting COM(2019) 186 final, Strasbourg, 15 April 2019, p. 15.

³⁵⁷ European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, More Efficient Decision-making in Social Policy: Identification of Areas for an Enhanced Move to Qualified Majority Voting COM(2019) 186 final, Strasbourg, 15 April 2019, p. 16.

4. THE POST-2020 EUROPEAN DISABILITY STRATEGY

KEY FINDINGS

- The European Parliament has expressed a strong interest in contributing to the post-2020 European Disability Strategy. At present, the three key documents adopted by the European Parliament relating to the new Strategy are: The 2017 Resolution on the Implementation of the European Disability Strategy 2010-2020; and, more recently, the Resolution of 18 June 2020 on the European Disability Strategy post-2020, drafted by the Committee on Employment; and the Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis, drafted by the Committee on Petitions.
- Whilst much of the 2017 European Parliament Resolution focused on the implementation of the European Disability Strategy 2010-2020, many of the comments and suggestions found in that Resolution are relevant for the development of the new Strategy. In its Resolution of 18 June 2020, the European Parliament set out its concrete recommendations for the European Disability Strategy post-2020, and in its July 2020 Resolution, the Committee on Petitions deliberated on the negative impact of the COVID-19 pandemic on the rights of persons with intellectual disabilities, and called on the European Commission and the Member States to take several measures to lessen this impact.
- In its 2017 Resolution, the European Parliament recommended that any future strategy and the consultation process related to it should be 'transparent, understandable and fully accessible', and be 'coherent with other EU initiatives and strategies'. In its June 2020 Resolution, the Parliament called on the Commission to build upon what has been achieved by upscaling its commitment to the rights of persons with disabilities through an ambitious post-2020 European Disability Strategy. Furthermore, in its July 2020 Resolution, the Parliament stressed that 'the COVID-19 pandemic has exposed major flaws in support systems for a number of at-risk groups in society' and underlined that 'investing in the gradual transition from institutional care to community-based services for persons with intellectual disabilities should be a priority'.
- Information stemming from the petitions submitted by EU citizens to the Committee on Petitions can serve as a source of information concerning gaps in CRPD implementation and, in that vein, can help to frame the post-2020 European Disability Strategy.
- Other EU institutions, including the European Economic and Social Committee, have also taken a keen interest in the European Disability Strategy 2010-2020. The European Economic and Social Committee has, to date, issued two Opinions which address the Strategy.
- In addition, Disabled People's Organisations and other Civil Society Organisations have taken an active interest in the development of the post-2020 Disability Strategy, and have issued position papers and statements presenting their views on its content and scope. The input of such organisations is important because, in light of Article 4(3) CRPD, the views of representative organisations of persons with disabilities should be taken into account in developing the post-2020 European Disability Strategy.

This chapter focuses on the proposals and recommendations regarding the post-2020 European Disability Strategy which have been made by a wide range of key stakeholders, including the European Parliament and other EU institutions, DPOs and CSOs, and other interested parties. To a large extent, these proposals and recommendations build on suggestions for improving and strengthening the European Disability Strategy 2010-2020. However, the adoption of a new Strategy provides the opportunity to start afresh, and for greater openness towards these proposals and recommendations.

4.1 Reflections and Recommendations on the Post-2020 European Disability Strategy

This section of the study presents key proposals and recommendations relating to the new Strategy made by various stakeholders. Sub-section 4.1.1 covers the European Parliament, while proposals and recommendations from other EU institutions, and specifically the European Economic and Social Committee, are discussed in sub-section 4.1.2. The views of relevant stakeholders from civil society, including DPOs, are presented in sub-section 4.1.3, whilst the final sub-section (4.1.4) draws on petitions submitted to the Petitions Committee of the European Parliament.

4.1.1 The European Parliament

To date, the three key documents adopted by the European Parliament concerning the new Strategy are: The 2017 Resolution on the Implementation of the European Disability Strategy³⁵⁸ (which was discussed in sub-section 3.1.3 above); the European Parliament Resolution of 18 June 2020 on the European Disability Strategy post-2020, which was drafted by the Committee on Employment;³⁵⁹ and the Resolution of 8 July 2020, drafted by the Committee on Petitions, on the rights of persons with intellectual disabilities in the COVID-19 crisis.³⁶⁰

Whilst much of the 2017 Resolution focused on the implementation of the European Disability Strategy 2010-2020, many of the comments and suggestions found in the Resolution are of importance for the development of the new Strategy, even though they are not explicitly framed as relating to the new Strategy. For example, the Parliament noted in its 2017 Resolution that 'a long-term perspective is needed for the alignment of EU policies, laws and programmes with the UNCRPD', and that the SDGs and the Social Pillar might be vehicles for implementing the CRPD. Concerns were expressed, in that regard, in the June 2020 Parliament Resolution, where it was noted that the 2010-2020 Strategy has

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

³⁵⁹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

³⁶⁰ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183 EN.html.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 8.

³⁶² European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. AD.

not been aligned with either the 2030 Agenda or with the European Pillar of Social Rights.³⁶³ That Resolution therefore **called on the Commission and the Member States to ensure that the EU's** post-2020 Strategy and Member State actions are aligned with the SDGs and the United Nations 2030 Agenda.³⁶⁴

In the June 2020 Resolution, the Parliament also recommended that the post-2020 Strategy include 'clearly designated priority areas that cover all the provisions of the CRPD and reflect the general comments of the CRPD Committee'. 365

In its 2017 Resolution, the Parliament reminded the Commission of its obligation 'to mainstream disability and develop and promote accessibility in all policy areas in both public and private sectors', and recommended 'setting up units with expertise in accessibility within the hierarchy of the Commission to verify that this duty is being accomplished'. With regard to the first point, the Parliament noted in its June 2020 Resolution that there is 'a lack of mainstreaming of the rights of persons with disabilities in a large number of EU policy areas', and that new and revised legislation continues to be put in place 'without any reference to the CRPD and accessibility'. The June 2020 Resolution also insisted that monitoring accessibility legislation should not be conducted by means of self-assessment, but, instead, by an independent entity that includes persons with disabilities; and the Parliament called on the Commission to establish a European Access Board for that purpose. The June 2020 Resolution also called on the Commission to use the EAA as:

[...] as a basis for adopting a robust EU framework for an accessible and inclusive environment with fully accessible public spaces, services, including public transport, communication and financial services, and the built environment; and to strengthen passenger rights to avoid further discrimination'.³⁷⁰

Notably, in its 2017 Resolution, the European Parliament called on the EU to ensure 'that all funding programmes are accessible, that they follow a universal design approach and include a separate

³⁶³ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. X.

³⁶⁴ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 44.

³⁶⁵ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5(a), available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 2.

³⁶⁷ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. AC, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

³⁶⁸ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. AD.

³⁶⁹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9 TA-PROV (2020) 0156, para. 8.

³⁷⁰ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 9.

budget for accessibility'. 371 The Parliament expressed the opinion that the SIF 'must, particularly in the next programming period, adhere to the UNCRPD and should continue to foster deinstitutionalisation as a matter of priority', and that EU-funded project proposals 'should respect accessibility rules following a universal design approach'. The 2017 Resolution also called on the EU 'to develop research programmes addressing equality principles when drawing up the post-Horizon 2020 framework for Research and Development'.373 At several junctures in the 2017 Resolution, the Parliament called on the Commission to facilitate the exchange of best practice on various issues, 374 and for EU action to be in line with, or compliant with, the CRPD. 375 One specific recommendation made regarding the CRPD was for 'all EU institutions, agencies and bodies to establish focal points', and 'the need for a horizontal interinstitutional coordination mechanism across [DGs] and EU institutions' was emphasised.³⁷⁶ The Parliament called 'for the necessary arrangements to achieve this to form part of a UNCRPD implementation strategy'. 377 In the same vein, the June 2020 Resolution called for the post-2020 Strategy 'to develop an interinstitutional structure to oversee its implementation using the procedures set out in the Interinstitutional Agreement on Better Law-making^{, 378} That Resolution also stressed that an interinstitutional mechanism should exist to facilitate cooperation between the Commission, Parliament and Council, with their respective Presidents meeting at the start of each mandate.379

The 2017 Resolution identified a large number of gaps in the implementation of the European Disability Strategy 2010-2020 in comparison with the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities on the initial report of the EU. Amongst these were the recognition that 'the Commission has so far not undertaken a cross-cutting, comprehensive review of its legislation in order to ensure full harmonisation with the provisions of the UNCRPD'. In a similar vein, in its June 2020 Resolution, the Parliament stressed that the post-2020 Strategy should be based 'on a cross-cutting comprehensive review of all EU legislation and policy in order to be fully harmonised with the provisions of the CRPD'; and insisted that the post-2020 Strategy 'should include a revised declaration

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 7.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 18.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 35.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 61.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, paras. 73, 87 and 103.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 104.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8 TA(2017)0474, para. 104.

³⁷⁸ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 16, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

³⁷⁹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 16.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 113.

of competences that includes all policy areas in which the EU has legislated or adopted soft law measures that have an impact on persons with disabilities'.³⁸¹

In its 2017 Resolution, the European Parliament noted that 'the EU has not organised a comprehensive campaign to raise awareness about the UNCRPD and to combat prejudice against persons with disabilities'. In the same Resolution, the Parliament expressed regret that no progress had been made in mainstreaming the rights of women and girls with disabilities in EU gender equality policies and programmes; nor in including a gender perspective in disability policies. Then, in June 2020, the European Parliament expressed the view that including a gender dimension in the post-2020 Strategy would contribute to an intersectional approach to eliminating discrimination against women and girls with disabilities; and called on the Commission 'to ensure the inclusion of a gender-based and intersectional approach' in the new Strategy, insisting that 'gender-disaggregated data should be collected in order to identify the forms of intersectional [and] multiple discrimination that are faced by women and girls with disabilities in all areas covered by the Istanbul Convention'. If furthermore urged the Commission 'to put forward a consolidated proposal within the post-2020 Strategy and to adopt effective measures to prevent and combat violence against women and children with disabilities'.

In its July 2020 Resolution, the European Parliament also addressed the collection of data, requesting that data 'be collected in each Member State concerning the treatment of persons with intellectual disabilities in hospitals, institutions and community-based services and on mortality rates of persons with disabilities' in order to assess whether or not they are receiving 'adequate protection, health care and support during the COVID-19 crisis'.³⁸⁷

Some references were explicitly made to the post-2020 Disability Strategy in the 2017 Resolution. With regard to social protection, the Parliament called on the Commission to ensure that the new Strategy 'includes specific actions to promote social protection systems across the EU which would guarantee access to benefits and services to persons with disabilities across the life cycle'. ³⁸⁸ In addition, 36 specific recommendations and remarks were made in the final section of the Resolution, entitled 'Towards a Comprehensive and Effective 2030 Disability Strategy'. The full set of recommendations will not be

³⁸¹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 14, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

³⁸² European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 18.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 115.

³⁸⁴ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. O, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

³⁸⁵ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 15.

³⁸⁶ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 15.

³⁸⁷ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, para. 7, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183 EN.html.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 66.

repeated here, although some of the most important points will be mentioned. A clear link with the CRPD was called for, with the Parliament calling on the Commission to ensure that the new Strategy:

aims at fully implementing the UNCRPD in all areas of EU policy and at mainstreaming accessibility, participation, non-discrimination and equality, encompassing all articles of the UNCRPD and that it include an adequate budget, a timeframe for implementation and a monitoring mechanism [...].³⁸⁹

In the 2017 Resolution, the Parliament stressed the importance of ensuring that all EU-funded projects are 'in line with the UNCRPD's human rights approach', and to promote campaigns and training courses to raise awareness of the CRPD. The June 2020 Resolution furthermore called on the Commission and Member States to:

[...] develop a comprehensive campaign that involves persons with disabilities, their representative family members and organisations, which is available in accessible formats, including an easy-to-read version, and national sign languages in order to raise awareness of the CRPD, the rights and needs of persons with disabilities and the barriers they face among persons with disabilities, duty-bearers and society in general'.³⁹²

In its 2017 Resolution, the Parliament called for an explicit recognition of the intersection between gender and disability in the new Strategy, with specific attention being paid to the situation of women with disabilities; as well as other groups of people with disabilities, including Lesbian, Gay, Bisexual, Transgender, Queer and Intersex people with disabilities; children with disabilities; and certain groups of people with disabilities, including people with intellectual disabilities and homeless people with disabilities.³⁹³ In its June 2020 Resolution, the Parliament also specifically acknowledged that the post-2020 Strategy should reflect the diversity of persons with disabilities and their needs; adopt a 'child-sensitive approach'; and pay special attention to those with intellectual disabilities.³⁹⁴

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 119.

³⁹⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 126.

³⁹¹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 133.

³⁹² European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 53, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, paras. 124, 128, 129, 133, 135, 136, 145 and 146.

³⁹⁴ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5(d), (g) and (i), available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

Furthermore, in its July 2020 Resolution,³⁹⁵ the European Parliament specifically addressed the rights of people with intellectual disabilities, including women. In that Resolution, the Parliament expressed deep concern about:

[...] the disproportionate impact of the COVID-19 crisis on persons with intellectual disabilities and persons with other mental health problems and their families, which creates an additional burden for family members caring for them, many of whom are women.³⁹⁶

In the same Resolution, the Parliament stressed that 'the COVID-19 pandemic has exposed major flaws in support systems for a number of at-risk groups in society' and underlined that 'investing in the gradual transition from institutional care to community-based services for persons with intellectual disabilities should be a priority'.³⁹⁷ In that regard, the Parliament called on the Commission to take 'further steps to mobilise essential investments and resources in order to guarantee the continuity of care and support services, in accordance with the principles of the CRPD and the European Pillar of Social Rights'.³⁹⁸

The 2017 Resolution noted a number of areas which could usefully be addressed in the new Strategy or future work by the Commission, including public procurement and standardisation,³⁹⁹ gender-based violence and support for victims of violence,⁴⁰⁰ support services,⁴⁰¹ legal capacity,⁴⁰² liberty and security,⁴⁰³ and migration and refugee policies.⁴⁰⁴ In its June 2020 Resolution, the European Parliament urged the Commission to consider 'emerging policy areas and challenges beyond the provisions of the CRPD, such as digitalisation and new technologies, automation and Artificial Intelligence'.⁴⁰⁵ Moreover, the July 2020 Resolution reminded the Commission of the 'untapped potential of digital technologies

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³⁹⁵ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183 EN.html.

³⁹⁶ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, para. 1.

³⁹⁷ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, para. 12.

³⁹⁸ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, para. 13.

³⁹⁹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 125.

⁴⁰⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 129.

⁴⁰¹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8 TA(2017)0474, para. 131.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 137.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 138.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 141.

⁴⁰⁵ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5(k), available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

and applications in promoting the independent living of persons with disabilities' and called for better use of these technologies and applications 'in possible future risk situations or humanitarian emergencies and natural disasters'. 406

The June 2020 Resolution also called on the Commission to 'create mechanisms to coordinate the portability and adaptability of benefits and services for persons with disabilities between the Member States and to expand the pilot project of the EU Disability Card to all Member States, extending it beyond culture and sport'. Furthermore, the June 2020 Resolution also called on the Commission to ensure that the post-2020 Strategy will:

[...] especially promote guaranteed access to employment, and vocational and professional training, inclusive education, affordable quality healthcare services, digital services, and sport activities for persons with disabilities.⁴⁰⁸

Notably, the June 2020 Resolution of the European Parliament called on the Council **to 'break** the deadlock in order to move towards a pragmatic solution and to speed up without further delay' the proposed EU horizontal non-discrimination directive, and not to accept any 'undue restrictions of the scope of the directive'. 409

In its 2017 Resolution, the Parliament also addressed the process leading to the adoption of the new Strategy and its structure, recommending that 'any future strategy and the consultation process related to it should be transparent, understandable and fully accessible', and be 'coherent with other EU initiatives and strategies'. It called for the EU to mainstream the new Strategy 'across all EU legislation and the EU Semester process'. The Parliament's 2017 Resolution also addressed the importance of dialogue between the EU and organisations representing persons with disabilities, and other stakeholders, in drafting and implementing the new Strategy. This point was also stressed in the June 2020 Parliament Resolution, which called for 'meaningful and systematic involvement of persons with disabilities and their representative family members and organisations'; and called for the Commission, and the Member States, to work closely with them in the implementation, monitoring and evaluation

⁴⁰⁶ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, para. 19, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183 EN.html.

⁴⁰⁷ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 47, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

⁴⁰⁸ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 20.

⁴⁰⁹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 64.

⁴¹⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 122.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 124.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 130.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, paras. 119, 130 and 140.

of the post-2020 Strategy, including through adequate funding and capacity building.⁴¹⁴ The June 2020 Resolution also urged the Commission to adopt a post-2020 Strategy which promotes collaboration, in implementation, with authorities, businesses, social partners and civil society at European, national, regional and local level.⁴¹⁵

Significant attention was paid to assessment and monitoring in both the 2017 Resolution and the June 2020 Resolution. In the 2017 Resolution, the Commission was called upon 'to propose an accessible assessment tool with ongoing monitoring, including specific indicators and tangible goals'. The need 'for measurable and comparable quantitative and qualitative indicators [...] in order to assess the implementation of the UNCRPD by the EU and the Member States' was stressed. The Parliament also called on the EU to develop 'a human rights-based indicator system [...] as well as a comparable comprehensive data collection system', and stressed the need 'for continuous monitoring of the implementation of the UNCRPD' and, in particular, of accessibility legislation. The Parliament also stressed this need in its June 2020 Resolution, calling for 'the collection (with legally established safeguards) of robust disaggregated data, broken down by type of disability, age, gender and factors that are relevant to the monitoring of progress in the implementation of the CRPD'.

Furthermore, the June 2020 Resolution called on the Commission to adopt a post-2020 Strategy that contains:

[...] ambitious, clear and measurable targets, including a list of planned actions with clear time frames and allocated resources in the following areas: equality, participation, free movement and independent living, accessibility, employment and training, education and culture, poverty and social exclusion, external action, freedom from violence and abuse, mainstreaming disability and awareness raising. 422

⁴¹⁴ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 17, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

⁴¹⁵ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. n, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

⁴¹⁶ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 127.

⁴¹⁷ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 143.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 144.

⁴¹⁹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 147.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 4.

⁴²¹ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 19, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

⁴²² European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

In addition, the June 2020 Resolution called for the Strategy to contain set implementation timeframes and timelines, and that it is backed by an 'adequate and sufficiently resourced monitoring mechanism with clear benchmarks and indicators', 423 as well as an adequate budget for both the post-2020 Strategy itself and the EU CRPD Framework. 424

Notably, the June 2020 Resolution called on the Commission to include a review of the Strategy every 3 years, with a 'clearly defined role' for the EU CRPD Framework, and to systematically and actively involve persons with disabilities and their representative organisations (at EU and national levels) in such a review.⁴²⁵ That Resolution also called on all Member States to report on the implementation of the European Disability Strategy,⁴²⁶ and to develop national disability strategies for promoting disability equality mainstreaming and address the implementation of the CRPD.⁴²⁷

On the whole, the European Parliament urged the Commission, in its June and July 2020 Resolutions, to put forward 'a comprehensive, ambitious and long-term post-2020 European Disability Strategy', 428 including lessons learned from the COVID-19 crisis'. 429

4.1.2 Other European Union Institutions

The European Economic and Social Committee has taken a keen interest in the European Disability Strategy 2010-2020, having issued two Opinions which address the Strategy to date. ⁴³⁰ At the end of 2019, the Committee issued a further Opinion which addressed the new Strategy: Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee. ⁴³¹ Committee member and EDF President, loannis Vardakastanis, was the rapporteur, and

⁴²³ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

⁴²⁴ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156_EN.pdf.

⁴²⁵ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 18.

⁴²⁶ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 62.

⁴²⁷ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, paras. 59-60.

⁴²⁸ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 5.

⁴²⁹ European Parliament, Resolution of 8 July 2020 on the rights of persons with intellectual disabilities in the COVID-19 crisis (2020/2680(RSP)), Brussels, 8 July 2020, B9-0204/2020, para. 17, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0183 EN.html.

⁴³⁰ See European Economic and Social Committee, Opinion on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final OJ C376/81 (Rapporteur: Vardakastanis), Brussels, 21 September 2011, available at: https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/european-disability-strategy-2010-2020; and European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, available at: https://www.eesc.europa.eu/our-work/opinions-information-reports/opinions/concluding-observations-un-crpd-committee-european-union-new-strategy-persons-disabilities-european-union.

⁴³¹ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11

the adoption of the Opinion was preceded by a public hearing. The Committee felt that the new policy instrument should be entitled The European Disability Rights Agenda 2020-2030', rather than be called a strategy. This was because it should take into account the inseparable correlation between obligations under the CRPD and commitment to the SDGs and the Pillar of Social Rights'. The Committee called on the Commission to strongly consider its recommendations and conclusions when drawing up the new Agenda, to more fully implement the CRPD, and to meet its commitments under the 2030 Agenda and the SDGs. The key recommendations made by the European Economic and Social Committee were:

December 2019, available at: https://www.eesc.europa.eu/en/news-media/news/eesc-urges-commission-make-new-strategy-disability-rights-farmore-ambitious.

See: https://www.eesc.europa.eu/en/news-media/news/we-can-dare-demand-more-eu-disability-rights-agenda-next-decade.

⁴³³ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, para. 2.2, available at: https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/shaping-eu-agenda-disability-rights-2020-2030-contribution-european-economic-and-social-committee-own-initiative-opinion.

⁴³⁴ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, para. 1.1.

⁴³⁵ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, chapter 1.

- ⇒ to set up DFPs in all DGs, agencies and EU institutions, with the central DFP to be located within the Secretariat-General of the European Commission and a strong focal point in DG JUST, to support the new Equality Commissioner;
- ⇒ to put in place an inter-institutional mechanism between the Commission, the Parliament and the Council, and a working group on disability within the Council;
- ⇒ to provide adequate human and financial resources for the EU CRPD Monitoring Framework of the CRPD, to ensure that it is able to carry out its tasks under Article 33(2) CRPD;
- ⇒ to review the EU's shared competences with the Member States to establish where the EU can work alongside its Member States to implement the CRPD;
- ⇒ to adopt the following legal instruments: legislation combating all forms of discrimination based on disability; a Directive harmonising the recognition of disability assessment across the EU; measures guaranteeing the rights of persons with disabilities to political participation at EU level and guidance to the Member States to ensure that this also happens at national level; binding legislation harmonising accessibility standards for the built environment; measures harmonising minimum standards for reasonable accommodation in the workplace, and establishing guidelines on minimum standards for disability benefits and the provision of services;
- ⇒ to include benchmarks and measurable indicators within the new disability Agenda and improve disaggregated data collection on disability;
- ⇒ to put pressure on the Member States, through the European Semester, to develop their own national disability strategies;
- ⇒ to ensure the full and active involvement of DPOs and CSOs in the drafting, implementation and governance of the new disability Agenda.

The European Economic and Social Committee's Opinion echoed the recommendations of the European Parliament in terms of ensuring a close connection between the new disability Agenda and the CRPD, stating that 'the Agenda needs to be constructed around the Concluding Observations (COs) and recommendations' of the UN Committee on the Rights of Persons with Disabilities, ⁴³⁶ and 'should be based on a cross-cutting, comprehensive review of all EU legislation and policy and be coherent with other EU initiatives and strategies to ensure full harmonisation with the CRPD'. ⁴³⁷ It felt that the Agenda should mainstream disability in all EU policy and legislation affecting the lives of persons with

⁴³⁶ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, para. 2.3.

⁴³⁷ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, para. 2.4.

disabilities, and reflect the general principles of Article 3 CRPD.⁴³⁸ The Committee favoured a broad scope for the new Agenda, covering combating discrimination and inequalities; ensuring full participation and free movement; achieving access in all environments; promoting quality employment and vocational training; providing quality, inclusive education and lifelong learning; combating precarity, poverty and social exclusion, including supporting the Member States in fostering healthcare access for people with disabilities on an equal basis with others; making the EU a world leader in leaving no one behind beyond its borders; as well as addressing governance implementation and monitoring, and communication and dissemination.⁴³⁹

4.1.3 Relevant Stakeholders

DPOs, and other CSOs, have taken an active interest in the development of the new Disability Strategy, and have issued position papers and statements presenting their views on its content and scope. The input of such organisations is important because, in light of Article 4(3) CRPD, the views of representative organisations of persons with disabilities should be taken into account in developing the post-2020 European Disability Strategy.

The European Disability Forum has issued a paper in which it sets out its view on the priorities for the new Strategy. Like the European Economic and Social Committee, EDF calls for the adoption of a 'European Disability Rights Agenda'. EDF argues that the policy-making context is now very different from when the European Disability Strategy 2010-2020 was adopted, and that the commitment to act is greater than ever. This is a result of the conclusion and ratification of the CRPD by the EU and all of its Member States, the appointment of a new European Commission – which now includes a Commissioner for Equality, Helena Dalli – and the realisation that, in spite of the good intentions of the Commission, the outcomes of the current Strategy sometimes fell short of expectations. The commitment to the SDGs and the Social Pillar also contribute to this new policy-making context.

EDF places great importance on monitoring and implementation of the new Disability Rights Agenda, stating that 'even more central to the Disability Rights Agenda than the proposed actions, should be the measures and structures foreseen to implement and monitor it'. It argued that EU institutions should use the Agenda to respond to the Concluding Observations of the UN Committee on the Rights of Persons with Disabilities. EDF also recommended that:

⁴³⁸ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, para. 3.1.

⁴³⁹ European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019 (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, chapters 4, 5 and 6.

⁴⁴⁰ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, available at: http://www.edf-feph.org/sites/default/files/edf disability rights agenda position 0.doc.

⁴⁴¹ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 3.

⁴⁴² EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 4.

⁴⁴³ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels. p. 4.

⁴⁴⁴ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 4.

- ⇒ A DFP should be placed in all Commission DGs, and in all EU institutions and agencies, as well as in all Member States.
- ⇒ The main DFP should be in the Commission's Secretariat-General, and the focal point for the CRPD should have the human and financial resources needed to implement the CRPD.
- ⇒ Representatives of the various focal points should meet regularly to ensure a 'quality' implementation of the Agenda.

EDF also called for the establishment of an inter-institutional mechanism 'that not only involves representatives from the focal points, but also convenes [a] meeting between the Presidents of the Commission, the Council and the Parliament at least once during each mandate'. EDF called for the Agenda to have its own budget, as well as monitoring mechanisms, and the budget 'should be decentralised and shared between all the disability focal points, to ensure their shared ownership in ensuring the Agenda achieves what it sets out to do'. In terms of monitoring and data collection, EDF argued that the Agenda should 'focus heavily on improving the type of data collected by Eurostat and see the Commission work alongside the Member States to ensure we have disaggregated data on disability'. Representative organisations of persons with disabilities should be involved in planning, putting into place and monitoring the Agenda.

In terms of the scope of the Agenda, EDF argued that all articles in the CRPD, as well as the SDGs and the Social Pillar, should be addressed. EDF used its paper to both identify key areas and fields which should be addressed in the new Agenda, as well as linking those fields to specific articles in the CRPD, the EU Treaties and the CFR, principles within the Social Pillar and specific SDGs. EDF therefore identified the following areas which it believes the Agenda should focus on: equality; participation, mobility and free movement; accessibility; employment and training; education; poverty and social exclusion (including health); and EU external action. EDF also called for disability to be mainstreamed across all EU initiatives, including the High-Level Group on Gender Mainstreaming, the European Institute for Gender Equality, the Green New Deal for Europe, the Youth Guarantee, the EU Youth Strategy and the Child Guarantee. EDF also called for more awareness-raising initiatives.

⁴⁴⁵ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 4.

⁴⁴⁶ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 4.

⁴⁴⁷ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 4.

⁴⁴⁸ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 4.

⁴⁴⁹ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 3.

⁴⁵⁰ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 9.

⁴⁵¹ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, Brussels, p. 9.

Inclusion Europe has also issued a paper on the new Strategy, entitled 'European Disability Strategy after 2020'. 452 Inclusion Europe called for the new Strategy to: 453

- ⇒ Address the importance of the right to make decisions, with legal capacity being a transversal area for action under the new Strategy, promoting supported decision-making instead of guardianship;
- ⇒ Establish clear targets to end segregation, and allocate resources to end segregation;
- ⇒ Address violence against women with intellectual disabilities, by including specific objectives and actions to combat violence against women;
- ⇒ Recognise the role of families in fulfilling rights and providing support to their relatives with disabilities, and include a dedicated section on families and their role;
- ⇒ Connect to peoples' experiences and be easier to understand, including by publishing an easy-to-read version of the Strategy.

In addition, Inclusion Europe stated that particular attention should be paid throughout the new Strategy to children with intellectual disabilities and their families; women with intellectual disabilities; and people with complex support needs and their families.⁴⁵⁴

Mental Health Europe, in its 2019 position paper on the European Disability Strategy 2010-2020, 455 addressed the need for, and content of, the new Strategy. It called for the European Commission to renew its commitment to the promotion and protection of the rights of persons with disabilities, including people with psychosocial disabilities, by adopting a comprehensive post-2020 European Disability Strategy which integrates and creates synergies with other policy, legislative and governance frameworks. MHE felt that the new Strategy should cover all the provisions of the CRPD and address the 2015 Concluding Observations of the UN Committee on the Rights of Persons with Disabilities. 456 It felt that the new Strategy should cover autonomy explicitly, and should be better adapted to emerging policy areas, including migration and the mental health needs of migrants. 457 MHE argued that the new Strategy should set out comprehensive objectives, with clear benchmarks and indicators, and provide for: 458

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⁴⁵² Inclusion Europe, European Disability Strategy after 2020, Brussels, 2019, available at: https://www.inclusion-european-day-of-persons-with-disabilities-conference/.

⁴⁵³ Inclusion Europe, European Disability Strategy after 2020, Brussels, 2019, p. 1, 3 and 5.

⁴⁵⁴ Inclusion Europe, European Disability Strategy after 2020, Brussels, 2019, p. 1.

⁴⁵⁵ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, April 2019, available at: https://mhe-sme.org/wp-content/uploads/2019/04/Assessment-of-the-European-Disability-Strategy-2010-2020.pdf.

⁴⁵⁶ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, 2019, p. 2.

⁴⁵⁷ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, 2019, p. 3.

⁴⁵⁸ MHE, Position Paper – Assessment of the European Disability Strategy 2010-2020, Brussels, 2019, p. 4.

- ⇒ An adequate budget allocated for the implementation of the Strategy;
- ⇒ An adequate and well-resourced monitoring mechanism;
- ⇒ DFPs in all relevant DGs of the European Commission, and relevant EU institutions and agencies;
- ⇒ An inter-institutional coordination mechanism;
- ⇒ A plan for the ratification (or conclusion) of the OP-CRPD.

Autism Europe has also issued a paper in which it presents recommendations for the new Strategy.⁴⁵⁹ The paper calls for 'an ambitious EU disability strategy beyond 2020 that leaves no one behind and takes into account the diversity of disability, support and accessibility needs'. Autism-Europe wished to see: ⁴⁶⁰

- ⇒ Effective mainstreaming of the disability perspective across all policy fields, and the designation of DFPs in all DGs and agencies of the European Commission, as well as across all EU institutions, with a central focal point in the Secretary General of the European Commission;
- ⇒ An efficient inter-institutional coordination and adequately resourced monitoring mechanism;
- ⇒ Action to secure the adoption of the horizontal non-discrimination Directive protecting people with disabilities from discrimination in all areas of life.

Autism-Europe used its paper to propose specific actions which it felt would have a positive impact on the lives of people with autism in the fields of education, access to employment, diagnosis and disability assessment, access to habilitation and health care, access to individualised support in the community, and support for families. The proposals were sometimes very much tailored to the situation of people with autism, although many actions relevant to the wider group of persons with disabilities were also proposed.

In its response to the 2019 public consultation on a new European Disability Strategy, COFACE Families Europe called for the **adoption of a** 'comprehensive post-2020 European disability strategy that continues supporting persons with disabilities and their families', and that has the following features (among others):⁴⁶¹

⁴⁵⁹ Autism Europe, Autism-**Europe'**s Evaluation of the European Disability Strategy 2010-2020. Recommendations for the Future Disability Strategy, Brussels, November 2019, available at: https://www.autismeurope.org/wp-content/uploads/2019/11/AE response EDS.pdf.

⁴⁶⁰ Autism Europe, Autism-Europe's Evaluation of the European Disability Strategy 2010-2020. Recommendations for the Future Disability Strategy, Brussels, 2019, p. 1.

⁴⁶¹ COFACE Families Europe, COFACE Families Europe Response to the Public Consultation: Reviewing the European Disability Strategy 2010-2020, Brussels, October 2019, p. 3-4, available at: http://www.coface-eu.org/wp-content/uploads/2019/11/COFACE-statement-on-European-disability-strategy-2019-2-1.pdf.

- ⇒ Alignment and coordination with the SDGs, with the Social Pillar and with the European Semester process;
- ⇒ An adequate budget allocated for the implementation of the Strategy at national and European level and comprehensive objectives with clear benchmarks and indicators;
- ⇒ An adequate and well-resourced monitoring mechanism with concrete targets;
- ⇒ An inter-institutional coordination mechanism;
- ⇒ Mainstreaming of disability in all policy areas, such as gender equality policy, and including emerging policy areas, such as refugees and migrants with disabilities, legal capacity and supported decision-making, and new technologies;
- ⇒ Draft legislation on non-discrimination on the basis of disability, including the recognition of the denial of reasonable accommodation as a form of discrimination on the ground of disability, multiple and intersectional discrimination, and discrimination by association.

The European Trade Union Committee for Education also issued its views on the public consultation on the implementation of the European Disability Strategy 2010-2020. ETUCE made proposals for priorities and measures to be introduced and/or strengthened in the new Strategy. In that regard, ETUCE called for: 462

- ⇒ A clear commitment of the European Commission to closely monitor (including gathering) all kind of data on the state of the art in each country;
- ⇒ The allocation of consistent funding for the implementation of each point of the Strategy.

Furthermore, AGE Platform Europe stressed that it is crucial that the new Disability Strategy: 463

- ⇒ Addresses the intersectionality between disability and ageing across the eight priority areas of action of the current Strategy;
- ⇒ Addresses statistics and data collection:
- ⇒ Ensures the involvement of older persons with disabilities in the development of policies related to ageing and/or disability.

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⁴⁶² European Trade Union Committee for Education (ETUCE), ETUCE's Views on the Public Consultation on the Implementation of the European Disability Strategy 2010-2020, Brussels, 2019, pp. 1-2, available at: https://www.csee-etuce.org/en/documents/statements/3294-etuce-s-views-on-the-public-consultation-on-the-implementation-of-the-european-disability-strategy-2010-2020.

⁴⁶³ AGE Platform Europe, Public Consultation: Reviewing the European Disability Strategy 2010-2020 – Contribution from AGE Platform Europe, Brussels, 12 November 2019, pp. 2-3, available at: https://www.google.com/search?client=firefox-b-d&g=age+platform+DisabilityStrategyConsultation Nov2019.

4.1.4 Petitions to the European Parliament

This sub-section of the study examines the role of the European Parliament's Committee on Petitions in protecting the rights of persons with disabilities, and highlights the most relevant and frequent requests and recommendations made by EU citizens to date through the petition process in respect of some of the priority areas of action contained in the European Disability Strategy 2010-2020.⁴⁶⁴

The petitions submitted to the Committee on Petitions of the European Parliament can, among other things, help to reveal the barriers that persist in the exercise of rights by people with disabilities in the priority areas of the current European Disability Strategy. This can guide the EU institutions in identifying priority areas and lines of action when drafting the new, post-2020 Strategy. In addition, since the European Parliament's Committee on Petitions plays an important role in the EU CRPD Framework for the implementation of the CRPD, any information stemming from the petitions submitted to the Committee can also serve as a vital means of information concerning gaps in CRPD implementation and, in that vein, can help to frame the post-2020 European Disability Strategy.

EU citizens, as well as residents and organisations with their headquarters in an EU Member State, are enabled through the petitions process of the Committee on Petitions to lodge a complaint about an infringement of their rights by a Member State; or by European, national and local authorities. Hearing the individual complaints of petitioners, the Committee on Petitions has been deemed to have a 'direct role' to play 'in protecting disability rights' in the wider context of the EU CRPD Monitoring Framework, alongside the European Ombudsman, Who protects EU citizens in the event of maladministration by the EU institutions, bodies, offices and agencies.

The conclusion of the CRPD by the EU in 2010 and the Concluding Observations issued to the EU by the UN Committee on the Rights of Persons with Disabilities in 2015 were deemed to provide 'a strong external driver for Parliament's engagement with disability equality issues'. 468 In its 2018 Briefing Report on the protection role of the Committee on Petitions, the European Parliament affirmed that the Committee's continued 'attention to disability rights remains important in meeting the EU's CRPD

⁴⁶⁴ This section only covers the priority areas of the European Strategy in which relevant information exists and where it is possible to access that information. In some instances, it was not possible to access information related to the follow-up to petitions.

⁴⁶⁵ The right to petition the European Parliament, and the relevant process, is set out in the Parliamentary Rules of Procedure, Title IX, available at http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=TOC.

⁴⁶⁶ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 2, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL_BRI(2018)608830_EN.pdf. See also European Parliament, Report of 24 January 2019 on the Outcome of the Committee on Petitions' Deliberations during 2018 (2018/2280(INI)), para. 18.

⁴⁶⁷ Along with the European Ombudsman, PETI is a member of the European Network of Ombudsmen, which includes nearly one hundred national or regional offices in 36 countries (EU Member States, Candidate and Associated countries).

⁴⁶⁸ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 7, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL BRI(2018)608830 EN.pdf.

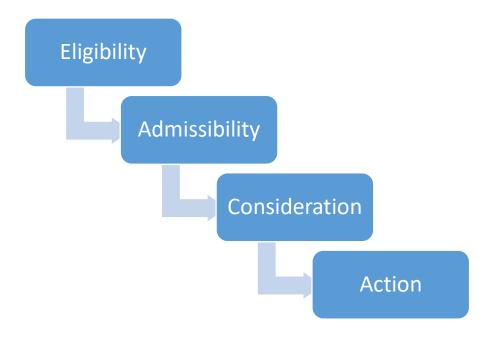
obligations'.⁴⁶⁹ In that respect, the European Commission's proposal to establish an EU CRPD Monitoring Framework pointed to the fact that the Committee on Petitions:

[...] contributes to the protection against Member States breaches of the [CRPD] when implementing EU law as it can hear all petitions from any EU citizen on matters that come within the Union's field of activity and directly affect them (Art. 227 TFEU).⁴⁷⁰

The above-mentioned Commission proposal also highlighted the fact that the Committee on Petitions is 'independent from the Member States and the Commission when carrying out this task'.⁴⁷¹

In terms of the procedure that applies within the Committee on Petitions, Priestley highlights that the petitions process has four stages, 472 as outlined below in figure 14.

Figure 14. The Procedure in the European Parliament's Committee on Petitions



Priestley notes that, following the consideration of petitions at monthly meetings or by means of written procedures, the Committee has several options, and:

⁴⁶⁹ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 2.

⁴⁷⁰ European Commission, Note on the Set-up of the EU Level of the Framework required by Art. 33.2 of the UN Convention on the Rights of Persons with Disabilities, p. 3, available at: http://ec.europa.eu/social/BlobServlet?docId=14154&langId=en.
⁴⁷¹ European Commission, Note on the Set-up of the EU Level of the Framework required by Art. 33.2 of the UN Convention on the Rights of Persons with Disabilities, p. 3.

⁴⁷² Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities, 2016 Update, Study for the PETI Committee, Directorate General for Internal Policies, 2016, p. 24, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

[...] may exercise its initiative to report, propose a motion for Parliamentary Resolution, request opinions from other Committees, make fact-finding visits, or forward recommendations to relevant parties for action. It may reply directly to the petitioner, for example to inform them about relevant legislation, contact national authorities in the Member States or request the Commission to investigate. In general, the Committee seeks non-judicial remedies. It is not empowered to overrule competent legal authorities.⁴⁷³

In a 2015 report on the activities of the Committee on Petitions during the previous year, the Committee identified the 'difficulties encountered by persons with disabilities' stemming from 'the fact that they do not enjoy the fundamental freedoms and rights laid out in the [CRPD]'.⁴⁷⁴ The report noted that 'the members of the Committee on Petitions therefore take their responsibility very seriously with regard to the establishment of a legal framework for the [CRPD's] implementation'.⁴⁷⁵ In that connection, it is notable that two representatives⁴⁷⁶ of the Committee on Petitions take part in the EU CRPD Monitoring Framework. Furthermore, the Committee on Petitions organises a workshop or hearing annually, focusing on the protection role played by the Committee in the context of the implementation of the CRPD. The European Ombudsman, FRA, the Commission, EDF and other stakeholders also participate in this event, with a view to discussing issues related to CRPD implementation.⁴⁷⁷

Up until 20 July 2020, it appears from the petitions portal website of the Committee on Petitions that 215 petitions have been lodged with and adopted by the Committee under the broad heading of 'disability issues' 478. However, it is worth noting that this number also includes those petitions that are lodged by petitioners under several different subject headings, some of which do not concern disability issues directly.

Although the volume of petitions related to disability 'remains small' in proportion to the overall number of petitions received by the Committee – averaging less than 2% of the overall number of petitions lodged to the Committee in the period 2013-2018⁴⁷⁹ – Priestley notes that an 'increasing

⁴⁷³ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities, 2016 Update, Study for the PETI Committee, Directorate General for Internal Policies, 2016, p. 24.

⁴⁷⁴ Explanatory Statement, annexed to the Report of 10 December 2015 on the Activities of the Committee on Petitions (2014/2218 (INI)) (Rapporteur: Geringer de Oedenberg), available at: http://www.europarl.europa.eu/doceo/document/A-8-2015-0361 EN.html?redirect.

⁴⁷⁵ Explanatory Statement, annexed to the Report on the Activities of the Committee on Petitions (2014/2218 (INI)) (Rapporteur: Geringer de Oedenberg), 10 December 2015.

⁴⁷⁶ Ms. Rosa Estaràs Ferragut and Ms. Soledad Cabezón Ruiz were appointed to the EU CRPD Monitoring Framework in January 2015.

⁴⁷⁷ European Parliament, Achievements of the Committee on Petitions during the 2014-2019 Parliamentary Term and Challenges for the Future, PE 621.917, July 2019, p. 25, available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621917/IPOL_STU(2019)621917_EN.pdf.

⁴⁷⁸ see https://petiport.secure.europarl.europa.eu/petitions/en/show-petitions?keyWords=&_anyEuCountry=on&searchRequest=true&resSize=20&pageSize=20&searchThemes=DISABILITY#res
479 European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities, PE 608.830, October 2018, p. 3, available at:
https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL_BRI(2018)608830_EN.pdf.

number of petitions' to the Committee on Petitions directly relate to the CRPD. ⁴⁸⁰ During the 2014-2019 period, the Committee dealt with a wide range of disability-related issues: from petitions related to access to public transport and to the built environment, and use of sign languages; to those connected to access to education and discrimination, in particular in employment. ⁴⁸¹

The 2018 European Parliament Briefing Report, entitled 'Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention', noted that the disability-related requests that featured most prevalently in petitions lodged with the Committee up to that point were connected to accessibility (Article 9 CRPD), social protection and the right to an adequate standard of living (Article 28 CRPD), the right to work and employment (Article 27 CRPD) and the right to live independently and be included in the community (Article 19 CRPD). At the recent event hosted by the European Economic and Social Committee, 'Shaping the EU Agenda for Disability Rights 2020-2030', Priestley outlined that accessibility issues and issues related to an adequate standard of living are, by far, the most prevalent petitions that have been received to date by the Committee. As a selection of the most relevant petitions and developments in the four areas mentioned above are outlined below:

i) Accessibility

The 2017 European Parliament Resolution on the Implementation of the European Disability Strategy 2010-2020 referred to the large number of petitions related to accessibility that have been brought before the Committee on Petitions since 2013. In that Resolution, the Parliament recalled that the Committee on Petitions receives 'a considerable number of petitions each year referring to the difficulties encountered by persons with disabilities across the EU in their everyday activities' in relation to the eight main priority areas of action identified in the European Disability Strategy 2010-2020. However, the Resolution underlined, in particular, that 'a consistent number of petitions' lodged by European citizens complain about lack of accessibility or the presence of architectural barriers'. This is confirmed by the 2018 European Parliament Briefing Report, mentioned above, which demonstrated that up until 2018, accessibility issues were the most commonly arising disability-related issues raised in petitions before the Committee. Priestley notes that an increase in accessibility-related petitions

⁴⁸⁰ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 26, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁴⁸¹ European Parliament, Achievements of the Committee on Petitions during the 2014-2019 Parliamentary Term and Challenges for the Future, PE 621.917, July 2019, p. 25, available at: https://www.europarl.europa.eu/RegData/etudes/STUD/2019/621917/IPOL_STU(2019)621917_EN.pdf.

⁴⁸² European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 4, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL_BRI(2018)608830_EN.pdf.

⁴⁸³ Mark Priestley, Professor of Disability Policy at Leeds University, presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

⁴⁸⁴ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 151, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁴⁸⁵ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 13.

⁴⁸⁶ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 5, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL BRI(2018)608830 EN.pdf.

was detected in the period 2015-2016, which he argued 'might be linked to awareness of the European Accessibility Act initiative'. 487

The 2017 European Parliament Resolution on the Implementation of the European Disability Strategy 2010-2020 pointed specifically to the accessibility challenges encountered by people with disabilities in relation to healthcare and social protection, education and training, the labour market, the built environment and transport, goods and services, information and communication, and participation in political, public and cultural life. 488

Two petitions, in particular, brought before the Committee on Petitions in 2013 and 2015 relate to accessibility issues and refer specifically to the European Disability Strategy 2010-2020.

Petition 2554/2013 concerned access by persons with disabilities to railway services in Spain. ⁴⁸⁹ The petitioner claimed that the Spanish railway operator RENFE did not implement an effective policy for individuals with disabilities regarding, in particular, the installation of 'lifting platforms' to enable access to trains. The petitioner claimed that this situation was not in line with the European Disability Strategy 2010-2020. Priestley notes that this petition raised 'an important concern for CRPD rights protection and one that features as a priority in the European Disability Strategy'. ⁴⁹⁰

In a subsequent Petition – Petition 1294/2015 – attention was drawn to the daily challenges faced by citizens who are colour blind, relating in particular to their difficulty in recognising signals indicated by light-emitting diode lights. The petitioner in question complained that there was a general lack of legislation in the EU on the design of products for individuals who are colour blind. The petitioner highlighted that the only relevant measures adopted on the basis of the European Disability Strategy 2010-2020 up to the date of the petition – such as Mandate 473, relating to Design for All – were not legally binding. The petitioner claimed that the existing non-binding EU instruments designed to promote universal design were not sufficient to guarantee access for those who are colour blind, and asked the European Parliament (and the EU institutions more generally) to adopt appropriate, concrete measures concerning the design of electric goods which use these types of lights. This petition was forwarded to three committees of the European Parliament, namely the Committee on Internal Market and Consumer Protection, the Committee on Environment, Public Health and Food Safety, and the Committee on Culture and Education.

⁴⁸⁷ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 30, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁴⁸⁸ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), P8_TA(2017)0474, para. 151, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁴⁸⁹ Committee on Petitions, Petition 2554/2013 by Inaki Albin Diaz (Spanish), on access of disabled persons to railway services in Spain.

⁴⁹⁰ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 37, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁴⁹¹ Petition 1294/2015 by J.K. (Estonian) on colour blindness issues related to the use of colour indicators.

⁴⁹² Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 83, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

Petition 1294/2015 was also forwarded to the European Commission, which replied that it was 'aware of this important issue and is working to address it through legislation and standards'. 493 In its response to the petition, the Commission then went on to outline relevant legislation or legislative proposals that had been adopted in addition to those mentioned in the petition itself, including – in December 2015 – a proposal for a Directive, namely the European Accessibility Act, to address accessibility matters through a Design for All approach. The Commission also pointed out that another Directive, on the accessibility of public sector bodies' websites⁴⁹⁴ (proposed by the Commission in December 2012), was intended, once adopted, to provide the first EU-wide set of rules to make websites and mobile applications of public sector bodies accessible for persons with disabilities, by introducing mandatory accessibility features. The Commission's response noted that both of the above-mentioned proposals contained a number of accessibility requirements which address issues related to the needs of those who are colour blind, including the provision of alternatives to colour in the user interface. Furthermore, it was noted in the Commission's response that Directive 2014/35/EU, 495 related to electrical equipment within certain voltage limits, which covers the safety of light-emitting diode lights, states in its recitals that the CRPD should be taken into account at standardisation level. In addition, the Commission highlighted that, in 2005, it issued Mandate 376 to the European Standardisation Organisations to develop a European Standard addressing accessibility matters in the area of information and communication technologies (ICT). The resulting standard, EN 301549, 496 contains requirements intended to tackle the issue of colour blindness. Moreover, in the field of public health, the Commission replied that it was implementing activities related to 'rare diseases'. While the Commission has no specific policy in place to address colour blindness, it pointed out that patients with colour blindness can benefit from actions taken under general rare diseases policy. 497 In order to raise awareness and to provide information on rare diseases, the Commission has also supported the Orphanet⁴⁹⁸ database (the world reference database on rare diseases) for several years.

The Committee on Petitions of the European Parliament expressed its agreement with the **Commission's** observations in relation to Petition 1294/2015, and decided to conclude its considerations on that basis.⁴⁹⁹

In other petitions, the accessibility of public transport was at issue. In Petition 1056/2015 (Italian), for instance, on access to the metro in Brussels for disabled people, the Committee on Petitions recommended⁵⁰⁰ that the petitioner contact the Complaints Service of the Brussels Regional Public Service.⁵⁰¹ The Committee on Petitions also requested information from the Commission, which provided its observations on 3 August 2016. **The Commission's observations** with regard to Petition

⁴⁹³ See Committee on Petitions, Notice to Members, 28 October 2016, available at: https://www.europarl.europa.eu/doceo/document/PETI-CM-593918_EN.pdf?redirect. The information in this paragraph is taken from that notice.

⁴⁹⁴ Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies [2016] OJ L 327/1.

⁴⁹⁵ Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits.

⁴⁹⁶ See: https://www.etsi.org/deliver/etsi_en/301500_301599/301549/02.01.02_60/en_301549v020102p.pdf.

⁴⁹⁷ For more information, see:

http://ec.europa.eu/health/rare_diseases/docs/2014_rarediseases_implementationreport_en.pdf.

⁴⁹⁸ See: http://www.orpha.net/consor/cgi-bin/index.php.

⁴⁹⁹ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵⁰⁰ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵⁰¹ See: http://be.brussels/about-the-region/ministry-of-the-brussels-capital-region/secretariat-general/complaints-service.

1056/2015 can be summarised as follows:⁵⁰² As Parties to the CRPD, both Belgium and the EU have obligations regarding accessibility, being bound by it to the extent of their respective competences. The European Commission noted that it had proposed – on 2 December 2015 – a European Accessibility Act, which was later adopted. It sets out common accessibility requirements for certain products and services, which are designed to help people with disabilities at EU level to participate fully in society. However, the Commission further noted that the problem described by the petitioner falls primarily within the responsibility of Belgium, which ratified the CRPD and its Optional Protocol. Under that Optional Protocol, the Committee on the Rights of Persons with Disabilities can consider communications from, or on behalf of, individuals or groups subject to the jurisdiction of a State Party to the Protocol who claim to be victims of a violation of the CRPD by that State Party.

Several recent petitions also relate to accessibility concerns, including Petition 1056/2016,⁵⁰³ in which the petitioner claimed that, since petitions can currently be tabled in all official languages of the EU, Deaf sign language users should be given the possibility to table petitions in various sign languages. This petition is currently under discussion in the Committee on Petitions, and a debate on this petition took place on 14 July 2020. Notably, the relevant Parliamentary services have been consulted in order to make it possible to enable petitioners to submit petitions in sign languages, and an inter-DG Working Group has been set up to work on web accessibility in the Parliament.⁵⁰⁴

Petition 0029/2017⁵⁰⁵ related to ensuring access to toilet facilities, and was brought before the Committee on Petitions by M.G.C. (French). The petition was forwarded to the Commission, which noted that except for the limited application of certain EU legislation⁵⁰⁶ that lays down concrete requirements to ensure accessible infrastructure and rolling stock in rail transport, but which is only applicable to new, renewed or upgraded infrastructure and rolling stock, there is no other applicable EU legislation with regard to accessible toilets. Nevertheless, the international obligations that Parties to the CRPD have committed to when ratifying the UN Convention still apply. Therefore, the matter may be pursued at national level.⁵⁰⁷ The Committee on Petitions recommended informing the petitioner that the European Parliament has adopted a report on the implementation of the CRPD, with special regard to the Concluding Observations of the UN CRPD Committee,⁵⁰⁸ in which access to toilets is mentioned under point 139. The Committee on Petitions also recommended referring the petitioner to the written Declaration drafted under Rule 136 of the European Parliament's Rules of Procedure with a view to supporting an increase in accessible toilets in the EU.⁵⁰⁹ Moreover, the Committee recommended explaining to the petitioner that the provision of such facilities is a matter of national

 $^{^{502}}$ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵⁰³ Petition No 1056/2016 Mark Wheatley (British) on behalf of European Union of the Deaf, requesting the European Parliament allow for the tabling of petitions in national sign languages used in the EU.

⁵⁰⁴ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵⁰⁵ Petition 0029/2017 by M.G.C. (French) on ensuring the dignity of people with disabilities and access to toilet facilities.

⁵⁰⁶ Commission Regulation (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility.

⁵⁰⁷ Committee on Petitions, Notice to Members, 30 August 2017, on file with the authors.

⁵⁰⁸ European Parliament, Report of 9 June 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), available at http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0203&language=EN.

See: http://www.europarl.europa.eu/sides/getDoc.do?type=WDECL&reference=P8-DCL-2016-0044&format=PDF&language=EN.

competence, and advising the petitioner to contact the relevant national authorities, such as a national equality board. On the basis of the above, the Committee on Petitions closed the petition.⁵¹⁰

Petition 0954/2019 by Ignacio Benitex Domínguez (Spanish) concerned measures to prevent discrimination against people who are deaf and hard of hearing. The petitioner expressed concern at the problems and obstacles faced by the deaf and hard of hearing in everyday life and called for the implementation of the International Convention on the Rights of Persons with Disabilities and Directive 2019/882 on the accessibility requirements for products and services. He also argued that new technologies should be used to promote the inclusion of those concerned instead of creating more barriers. In responding to the Committee on Petitions request to respond, the Commission observed as follows:⁵¹¹ The obligation to ensure that financial institutions and private companies provide accessible services to persons with disabilities remains, for the time being and pending the transposition of the European Accessibility Act, a national competence. All Member States, including Spain, have ratified the CRPD. By virtue of Article 9 CRPD, Parties to the CRPD must ensure to persons with disabilities access, on an equal basis with others, to information, communications (including ICT and systems) and services provided to the public. By virtue of Article 12 CRPD, States Parties must ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit. The Commission noted that it has no power to intervene or to monitor the implementation of the CRPD in matters falling within the competences of the Member States. However, in relation to the accessibility of products and services, and specifically of banking services, the European Parliament and the Council adopted the EAA in March 2019. The Directive was published in the Official Journal of the EU in June 2019 (shortly before the facts reported by the petitioner). The EAA sets out the obligation for EU Member States to ensure that the products and services included within the scope of the Directive are made accessible to persons with disabilities. The deadline for transposing the EAA is 28 June 2022. By that date, all EU Member States must adopt and publish the laws, regulations and administrative provisions necessary to comply with the EAA. The measures set out in the Directive will apply as of 28 June 2025, and if a Member State fails to communicate measures that fully transpose the provisions of the EAA, or does not rectify a suspected violation of EU law, the Commission may launch a formal infringement procedure. 512

Notably, the Committee on Petitions will discuss the Commission's response to Petition 0954/2019 at one of the Committee's next meetings.⁵¹³

Furthermore, in Petition 0530/2018 by J.S. (Swedish),⁵¹⁴ the petitioner (who has 'neuropsychiatric **disorders', according to the** summary of the petition itself) complained that the General Data Protection Regulation (GDPR)⁵¹⁵ hinders access to the internet for people with disabilities, since it does not allow companies to share information *via* the internet, leaving users who want (or need, due to

⁵¹⁰ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵¹¹ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵¹² Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵¹³ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵¹⁴ Petition 0530/2018 by J.S. (Swedish) on the General Data Protection Regulation (GDPR) influencing access to internet for persons with disorders.

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4 May 2016.

their impairment) to share personal medical data in this manner without the option to express a choice to opt for this means of information sharing. The petitioner expressed her concern regarding this alleged gap in the GDPR. Notably, the point raised by the petitioner is a relevant one in terms of ensuring the complementarity of existing EU legislation with the CRPD *via* the new European Disability Strategy.

The Commission has set out its response to Petition 0530/2018, a summary of which is provided below: 516 The CFR guarantees, in Article 8, that everyone has the right to the protection of personal data concerning him- or herself. On 27 April 2016, the EU adopted the GDPR, which is directly applicable since 25 May 2018. Under the GDPR, health data are considered as a special category of data requiring a stricter level of protection. The processing of special categories of data is, in principle, prohibited, unless a justification can be found in Article 9(2) GDPR. Article 9(2)(a) GDPR expressly provides that organisations are allowed to process health data where the individual concerned has given explicit consent to the processing of those personal data for one or more specified purposes. Organisations acting as data controllers are responsible for ensuring compliance with the GDPR, and Article 32 GDPR requires that organisations processing personal data implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk involved. However, those organisations should not refuse to deal with requests by individuals for reasons based on data protection. When these organisations have implemented security measures such as encryption to secure the processing of health data, the individuals concerned have to take all of the necessary measures to allow for a secure exchange of personal data. Failure by organisations to respect the obligations and rights set forth in the GDPR may lead to the imposition of corrective measures as well as administrative fines. The Commission concluded that the monitoring and enforcement of the application of data protection legislation falls within the competence of the data protection supervisory authorities and courts, without prejudice to the competences of the Commission as Guardian of the Treaties. Any individual whose personal data are processed may lodge a complaint with a competent data protection authority in the EU, or file a legal action in court, if he/she considers that the processing of personal data relating to him or her infringes data protection legislation. The petition is still open, and the response from the Commission was sent to the petitioner for comments. 517

The petitions lodged with the Committee on Petitions have also served to draw attention to a lack of progress on EU legislative initiatives connected to the CRPD. For instance, a Petition from 2011 – Petition 0924/2011⁵¹⁸ – contributed to the adoption by the European Parliament of a Resolution in 2012,⁵¹⁹ which called on the Council and the Commission to support a binding World Intellectual Property Organization treaty with regard to copyright on books and printed products for blind and visually impaired people. The relevant treaty (the Marrakesh Treaty)⁵²⁰ was finally signed by the EU and its Member States in 2014, but its 'ratification [or conclusion] by the EU proved problematic', according

⁵¹⁶ Committee on Petitions, Notice to Members, 22 February 2019, on file with the authors. The information in this paragraph is taken from that notice.

⁵¹⁷ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵¹⁸ Petition 0924/2011 (British), on behalf of European Blind Union (EBU)/Royal National Institute of Blind People (RNIB), on access by blind people to books and other printed products.

⁵¹⁹ European Parliament, Resolution of 16 February 2012 on Petition 0924/2011 by Dan Pescod (British), on behalf of the European Blind Union (EBU)/Royal National Institute of Blind People (RNIB), on access by blind people to books and other printed products OJ CE 249/19, 30 August 2013.

⁵²⁰ World Intellectual Property Organization, Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities [2013].

to Priestley; and, thus, the Committee on Petitions wrote to the Council and to all EU Member State Permanent Representations to request that the Council proceed, without delay, with the EU conclusion of the Marrakesh Treaty, reminding the Member States of their CRPD obligations.⁵²¹ The EU concluded the Marrakesh Treaty on 1 October 2018.⁵²² **The Treaty's** aims are closely interlinked with those of the CRPD.

That same petition – Petition 0924/2011 – was later referred to by the Committee on Petitions in its September 2015 debate on disability petitions,⁵²³ where the Committee expressed its concern about the lack of progress made at that point in time on a European Accessibility Act, and 'called for legislative progress within the year'.⁵²⁴ In a later, 2017 Opinion, the Committee on Petitions stressed that:

[...] the right to accessibility, as defined in Article 9 of the UNCRPD, must be implemented in a comprehensive manner to ensure that persons with disabilities can access their environment, transportation, public facilities and services, as well as information and communications technologies [and called] on the Commission and the Member States to ensure that accessibility is a high priority and that it is better integrated into all disability policy areas.⁵²⁵

Subsequent to the submission of Petition 1294/2015, discussed above, Directive 2019/882 on the accessibility requirements for products and services (the EAA) was adopted, as mentioned in previous sections of this study. The EAA pays attention to some of the issues raised in the petitions outlined above, including making the products and services covered under its scope accessible to people who cannot perceive colour; however, the material scope of the EAA is substantially narrower than that of the CRPD.

Before the adoption of the EAA, the UN Committee on the Rights of Persons with Disabilities called for 'effective and accessible enforcement and complaint mechanisms' to be incorporated in any accessibility legislation adopted by the EU.⁵²⁶ The EAA does contain enforcement mechanisms, and the Committee on Petitions 'has a clear role to play' in terms of serving as a complaint mechanism on accessibility issues.⁵²⁷

⁵²¹ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 33.
⁵²² Council Decision (EU) 2018/254 of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled OJ L 48/1, 21 February 2018.

⁵²³ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 39, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁵²⁴ See Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 39.

Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the European Disability Strategy (2017/2127(INI)), RR\1138289EN.docx, PE608.029v02-00 (Rapporteur: Wikström), 11 September 2017, para. 13.

⁵²⁶ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 02 October 2015, CRPD/C/EU/CO/1, para. 29.

⁵²⁷ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities

ii) Social Protection and an Adequate Standard of Living

Petitions in the area of social protection reflect a large proportion of the overall number of disability-related petitions lodged with the Committee on Petitions. According to the 2018 European Parliament Briefing Report mentioned above, 'many of the disability issues raised in petitions refer to matters of poverty and social protection where persons with disabilities have been unduly disadvantaged by national policies'. The 2017 European Parliament Resolution on the Implementation of the European Disability Strategy 2010-2020 emphasised that most of the disability-related petitions submitted by European citizens concern 'difficulties involved in the application procedures, in obtaining recognition and in relation to late payments of invalidity pensions by the relevant administrations'. In that regard, the Resolution underlined that the implementation of the European Disability Strategy and actions related to the priority area of social protection 'should pay special attention to these issues, in accordance with Article 28 of the UNCRPD on an adequate standard of living and social protection'. Sao

Some petitions in this area have been declared inadmissible. For example, petition 1383/2015 (Slovenian)⁵³¹ was declared inadmissible, since the EU does not have the competence to decide on the calculation of welfare payments, but the petition was forwarded to the European Parliament's Committee on Employment and Social Affairs and to the relevant national authorities.⁵³²

While several matters in this field do not fall squarely within the Union's sphere of competence, Priestley notes that Petition 0098/2015,⁵³³ on family caregivers in Italy, was discussed during a September 2015 debate in the Committee on Petitions, in which it was argued that austerity measures in Member States fall under EU competence on account of the fact that the Economic and Financial Affairs Council approves Member States' budgets.⁵³⁴ Priestley asserts that 'if austerity measures imposed upon a Member State via EU mechanisms do impact disproportionately on people with disabilities then it could be argued that any complaint of CRPD rights violation might also fall within the EU Framework's mandate' for the Committee on Petitions, suggesting that the members of the EU CRPD Monitoring Framework, including the Committee on Petitions, 'might be obliged to act in protecting against a wider range of abuses of human rights that are brought to their attention in the Member States'.⁵³⁵

⁽Author: Mark Priestley), PE 608.830, October 2018, p. 5, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL_BRI(2018)608830_EN.pdf.

⁵²⁸ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 6.

⁵²⁹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), P8_TA(2017)0474, para. 154, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 154.

⁵³¹ Petition 1383/2015 (Slovenian) on disability matters in Slovenia.

First ley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 85, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁵³³ Petition 0098/2015 (Italian) on family caregivers in Italy.

⁵³⁴ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 45.
⁵³⁵ Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 6.

Notably, the 2018 European Parliament Briefing Report claims that there is potential for the Committee on Petitions 'to act on petitions concerning social policies, in areas of shared competence, by expressing its concerns in EU policy co-ordination processes'. 536

iii) Employment

Many disability-related petitions in the field of employment have been brought before the Committee on Petitions – over 20 petitions in total in the period 2013-2018.⁵³⁷

In Petition 0103/2016, ⁵³⁸ on the difficulties faced by people with disabilities in finding employment, the petitioner, a disabled person who trained as a teacher, indicated that, despite all her efforts, she is unable to find employment even in jobs for which she is overqualified. Having contacted all the relevant Italian authorities, she argued that those who should be helping her are failing to do their jobs properly and that the laws adopted in Italy intended to help those with disabilities are not being complied with in practice. As a result, she maintained that Italy is failing to comply with the CRPD, the European Disability Strategy 2010-2020 and Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation. ⁵³⁹

That petition was forwarded to the European Parliament's Committee on Employment and Social Affairs and further information was requested, and later received, from the European Commission in August 2016. In its reply, the Commission outlined that a complaint on the same subject as the petition had already been submitted to the Commission twice in the form of the following documents: CHAP(2016)453 (the reply was sent to the petitioner on 8 July 2016 and the case was closed on 8 August 2016) and CHAP(2016)716 (which was closed immediately because of duplication). The Commission therefore repeated its conclusions already communicated to the petitioner, and those conclusions are summarised below:540 In accordance with the division of competences between the EU and its Member States in this field, as enshrined in the EU Treaties, the European Commission has no competence to intervene in national employment situations; this area falls within the exclusive competence of the national authorities. Directive 2000/78/EC prohibits discrimination on the grounds of, among others, disability, with a view to putting into effect in the Member States the principle of equal treatment in the areas of employment and occupation. The Directive also provides for reasonable accommodation for individuals with disabilities. However, it does not impose on Member States the obligation to take measures of positive action; rather, it merely allows them to adopt such measures aimed at creating or maintaining provisions or facilities for safeguarding or promoting the integration of disabled persons into the working environment. The Commission concluded, therefore, that it could not intervene in this

⁵³⁶ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 6, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL_BRI(2018)608830_EN.pdf.

⁵³⁷ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 5.

⁵³⁸ Petition 0103/2016 (Italian) on the difficulties faced by people with disabilities in finding employment.

⁵³⁹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.

⁵⁴⁰ Committee on Petitions, Notice to Members, 31 August 2016, on file with the authors. The information in this paragraph is taken from that notice.

case, and outlined that the petitioner may submit her case to the National Observatory (*Osservatorio Nazionale sulla condizione delle persone con disabilità*), which assists victims of discrimination and monitors the implementation of the CRPD in Italy. The Commission also indicated that the petitioner could contact the Italian Ombudsman's office of Campania. After having exhausted national remedies, the petitioner could also submit a communication to the UN Committee on the Rights of Persons with Disabilities. The Committee on Petitions mainly agreed with the Commission's reply in relation to Petition 0103/2016, and closed the petition on this basis.⁵⁴¹

Notwithstanding the Commission's observations in Petition 0103/2016 above, Priestley highlights that, given the EU's competence in the field of non-discrimination and employment, petitions covering employment present 'a clear example' of the Committee's 'ability to act in a CRPD protection role'. Furthermore, the European Parliament's 2018 Briefing Report outlines that there is scope for the Committee on Petitions to communicate 'more petitions of interest, or matters arising, to the Commission country desks responsible for analysis of national employment policies'. 543

Other recent petitions in the field of employment include Petition 1500/2016 by Eduardo Jose Rodríguez Trujillo (Spanish) on the working situation of people with disabilities; Petition 1190/2017 by K.H. (German) on discrimination against staff with serious disabilities in the public sector; Petition 1092/2018 by M.B. (German) on discrimination against people with disabilities in employment in Germany; and Petition 1127/2018 by Raimonds Lejnieks-Puke (Latvian) on establishing a quota system for promoting the employment of people with disabilities.

The petitioner in Petition 1500/2016 had called on the EU institutions to establish uniform criteria for disability that are harmonised in all Member States. The petitioner also called on the EU to take positive action with regard to the hiring of people with disabilities through EU competitions by introducing a so-called 'hiring rate' for people with disabilities. Furthermore, the petitioner urged the EU to extend the disability card to all Member States. The petition was forwarded to the Commission, which observed as follows:⁵⁴⁴ The recognition of disability status and the allocation of related benefits are matters of national competence. There is no mutual recognition between Member States of disability status, and the European Commission does not have any competence in that regard, and thus cannot establish common disability criteria for Member States. Nevertheless, the CRPD, which the EU and its Member States have ratified, provides a definition of persons with disabilities that the Parties to the UN Convention should follow. The Commission expressed the view that the concept of 'disability' contained in the CRPD has been endorsed by the CJEU⁵⁴⁵ and must be understood as referring to a

114 PE 656.398

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⁵⁴¹ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

Fiestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 42, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁵⁴³ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 6.

⁵⁴⁴ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵⁴⁵ See, however, academic literature which argues that the CJEU definition of disability is not fully in line with the CRPD: Waddington L., 'Saying all the Right Things and Still Getting it Wrong: The Court of Justice's Definition of Disability and Non-Discrimination Law' (2015) 22(4) Maastricht Journal of European and Comparative Law 576; Waddington, L. and Broderick, A. Combatting Disability Discrimination and Realising Equality: A Comparison of the UN CRPD and EU Equality and Non-discrimination Law. Luxembourg, Publications Office of the European Union, European Commission; and Favalli, S. and Ferri, D.. 'Defining Disability in the European Union Non-discrimination Legislation: Judicial Activism and Legislative Restraints'. (2016) 22(3) European Public Law, 537.

limitation which results in particular from long-term physical, mental or psychological impairments which, in interaction with various barriers, may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers.

The Commission acknowledged that individuals with disabilities travelling to another EU Member State are often not treated equally to residents of that other Member State, as their disability cards/status are not always recognised outside their Member States of origin. To improve this situation, the Commission developed the pilot EU Disability Card in 2016-2017, to be implemented on a voluntary basis in certain Member States in the areas those States approved. The Commission stated that it will continue to support Member States in the implementation of the pilot project on the EU Disability Card and associated benefits in the areas of culture, leisure, sport and transport. It will further encourage other Member States to enter the scheme. The scheme of the scheme of the scheme of the scheme.

In its response to Petition 1500/2016, the Commission also pointed out that attention is paid to the recruitment of people with disabilities by the EU institutions, as the European Personnel Selection Office (EPSO) has consistently applied an equal opportunities policy to its selection procedures and takes all reasonable measures to ensure equal treatment of all candidates. These measures are firmly in line with the CRPD, according to the Commission._Candidates are informed of the rules and procedures in the Notice of competition⁵⁴⁹ as well as in the application form, and how they need to proceed in order to benefit from accommodations. EPSO carefully analyses each case by focusing on the candidate's needs, and proposes tailor-made special measures for testing in order to enable them to perform to the best of their abilities. This analysis is done in close contact with the candidates. EPSO maintains an open and constructive dialogue with its candidates requiring extra accommodation, and does its best to ensure the testing conditions are as satisfactory as possible for them. EPSO also collaborates with EDF by exchanging information with them with regard to mutual experiences on how to handle and accommodate individuals with different kinds of disabilities.

Moreover, the Commission's response highlighted that there is no legal basis in its Staff Regulations to put in place 'positive discrimination' measures (such as quotas) for persons with disabilities. The Staff Regulations allow compensation for the disadvantages experienced by persons with disabilities by providing them with reasonable accommodation. However, the Staff Regulations also stipulate that recruitment for the EU institutions must be based on merits. This being said, the Commission actively welcomes the applications of candidates with disabilities.

The Committee on Petitions agreed mostly with the Commission's reply, which was sent to the Petitioner. The petition was closed on this basis. 550

Petition 1190/2017 related to a claim that workers with severe disabilities who work within the public administration and/or church-related undertakings in Germany are not represented in the event of

⁵⁴⁶ So far, there are eight Member States taking part in this initiative: Belgium, Cyprus, Estonia, Finland, Italy, Malta, Romania and Slovenia. See: http://ec.europa.eu/social/main.jsp?catld=1139&langld=en.

These areas are culture, leisure, sport and transport, which also correspond to Action 6 of the EU Citizenship Report 2013, available at: http://ec.europa.eu/justice/citizen/files/com 2013 269 en.pdf.

⁵⁴⁸ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

⁵⁴⁹ See: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.CA.2017.099.01.0001.01.ENG.

⁵⁵⁰ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

restructuring, since the applicable German law does not provide for any transitional mandate for their representatives. In contrast, severely disabled workers who work within a private undertaking are entitled to representation in such events. The petitioner alleged that the above situation constitutes discrimination on the ground of disability. This petition was also forwarded to the Commission, which pointed out in its response that EU law, in particular Directive 2000/78/EC,⁵⁵¹ prohibits discrimination on the basis of certain exhaustively enumerated grounds including disability in the fields of employment and occupation. However, the Commission noted that the German legislation at issue does not establish a difference of treatment between workers on the basis of disability but rather on the basis of the organisation where they work. Since the criterion used for the differential treatment at issue is not related to the protected characteristic, namely disability,⁵⁵² the Commission found that there does not appear to exist any direct or indirect discrimination on the ground of disability in the sense of Article 2 of Directive 2000/78/EC.⁵⁵³

The Committee on Petitions agreed mostly with the Commission's reply to Petition 1190/2017, which was sent to the Petitioner. The petition was closed on this basis.⁵⁵⁴

With regard to Petition 1127/2018 by Raimonds Lejnieks-Puke (Latvian) on establishing a quota system for promoting the employment of people with disabilities, the Committee on Petitions has pointed to the fact that the petitioner has been informed of the 2010-2020 European Disability Strategy that encourages Member States to include specific targets for persons with disabilities in their NRPs to monitor poverty, employment rates and education; and, furthermore, that the Committee on Petitions has adopted an opinion on the Implementation of the European Disability Strategy, 555 in which employment was highlighted as one of the main challenges in the effective implementation of the European Disability Strategy 2010-2020. The Committee on Petitions has also noted that the petitioner has been informed that, in 2017, the Commission adopted a proposal to amend the Employment Guidelines concerning the EU employment strategy, which include a direct reference to disability. 556 On the basis of this, the petition was closed. 557

iv) Living Independently and Being Included in the Community

In a 2017 Opinion of the Committee on Petitions – for the Committee on Employment and Social Affairs – on the implementation of the European Disability Strategy,⁵⁵⁸ the Committee on Petitions noted that it 'is regularly approached with questions relating to the right of people with disabilities to live

⁵⁵¹ See: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0078:en:HTML

⁵⁵² See, by analogy, CJEU judgment of 9 March 2017 in case C-406/15, *Milkova*, in particular paragraph 43, and judgment of 21 May 2015 in case C-262/14, *SCMD*, in particular para. 28ff.

⁵⁵³ Committee on Petitions, Notice to Members, 29 August 2016, on file with the authors. The information in this paragraph is taken from that notice.

⁵⁵⁴ Information provided by the Secretariat of the Committee on Petitions, on file with the authors.

European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁵⁵⁶ Council Decision (EU) 2018/1215 of 16 July 2018 on guidelines for the employment policies of the Member States.

⁵⁵⁷ The information in this paragraph was provided by the Secretariat of the Committee on Petitions, and is on file with the authors.

Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the European Disability Strategy (2017/2127(INI)), RR\1138289EN.docx, PE608.029v02-00 (Rapporteur: Wikström), 11 September 2017, available at: https://www.europarl.europa.eu/doceo/document/A-8-2017-0339 EN.html#title5.

independently, as enshrined in Article 19 of the UNCRPD'. 559 In that regard, the 2017 Opinion points to the fact that the Committee on Petitions:

has encouraged the development of more inclusive communities and institutionalisation systems where requested, so that in both cases people with disabilities can receive appropriate support and assistance across the EU, thereby fostering the aim of greater autonomy within each individual's possibilities.⁵⁶⁰

A key issue in this area is the requirement for Member States to make appropriate use of the SIF to support deinstitutionalisation and promote community living, ⁵⁶¹ which is of particular relevance against the background of the COVID-19 pandemic. The objective of supporting deinstitutionalisation and promoting community living accords clearly with Article 19 CRPD. In this light, Priestley is of the view that:

[t]here is clearly a role for [the Committee on Petitions] in protecting and seeking enforcement of this right at the EU level where petitioners identify such cases, whether or not the planning and organisation of long-term care systems lies within the responsibility of national authorities. Given the existence of specific EU law relating to European investment funds and public procurement this is, conceivably, an issue where Commission infringement proceedings could be invoked as [a] consequence of a well-substantiated petition. ⁵⁶²

On the whole, the four areas discussed above and the petitions lodged to date with the European Parliament's Committee on Petitions serve to shed light on the wide array of challenges faced by citizens with disabilities in the EU. The analysis above does not cover all disability-related petitions lodged with the Committee on Petitions, however. For example, a petition in the field of political participation was lodged with the Committee in 2015.⁵⁶³ Perhaps surprisingly, this is the only petition that has been received by the Committee on that issue (at the time of writing), and the Committee found that there was a lack of substantial elements in this petition coming within the Union's fields of activity. Recently, at the Committee meeting of 19 February 2020, members of the Committee on Petitions heard the presentation of a report by the European Economic and Social Committee focusing

⁵⁵⁹ Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the European Disability Strategy (2017/2127(INI)), RR\1138289EN.docx, PE608.029v02-00 (Rapporteur: Wikström), 11 September 2017, para. 18.

⁵⁶⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 18, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁵⁶¹ See, in that regard, Petition 1459/2012 by Judith Klein (Hungarian), on behalf of Open Society Foundations, supported by 12 associations, on misuse of Structural Funds in relation to people with disabilities in some central and eastern European countries.

⁵⁶² Priestley, M., The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Study for the PETI Committee), Directorate General for Internal Policies, 2016, p. 41, available at: https://euagenda.eu/upload/publications/untitled-70600-ea.pdf.

⁵⁶³ See Petition 1198/15 (Italian), on the freedom to participate in the election for public bodies to the disabled Italian), on the freedom to participate in the election for public bodies to the disabled.

on the right of persons with disabilities to vote in European Parliament elections, and this is an area which may be the subject of further petitions in the coming years. It is also an issue which has great relevance for the new European Disability Strategy, as demonstrated above.⁵⁶⁴

Other petitions of relevance to the new Disability Strategy have also been received by the Committee on Petitions, such as Petition 0756/2019 by P.T. (German) on an EU-wide disability card. This particular petition is still open, as the Commission's response is awaited. However, the petitioner has been informed that the Commission is aware of the problems related to the mutual recognition of disability cards, and that there is a pilot project on the introduction of an EU-wide disability card. ⁵⁶⁵

The petitions lodged with the Committee on Petitions not only highlight issues relevant to the priority areas of action in the 2010-2020 European Disability Strategy, but also issues of broader relevance. For instance, the 2017 European Parliament Resolution on the Implementation of the European Disability Strategy emphasised that the petitions received by the Committee illustrate the need to 'adopt an effective, horizontal, non-discriminatory and human rights-based approach to disability policies'. Furthermore, the 2017 Opinion of the Committee on Petitions pointed out that the petitions that have received most attention have often been backed by CSOs representing people with disabilities, and 'a need therefore exists to promote and publicise the protection role and effectiveness of petitions based on infringements of these rights'. In its 2017 Opinion, the Committee also emphasised the role played by these organisations in 'promoting social inclusion and an improvement in the quality of life of persons with disabilities', and it was considered that this task should be further supported by public institutions. ⁵⁶⁸

While petitions lodged with the Committee on 'disability issues' form only a small number of the overall petitions received by the Committee on Petitions, the European Parliament affirms that they 'have a strong significance for the Parliament's responsibility to promote, monitor and protect disability rights and equality under international law'.⁵⁶⁹

⁵⁶⁴ See sub-sections 3.1.1 and 4.1.2.

⁵⁶⁵ See: https://ec.europa.eu/social/main.jsp?catId=1139&langId=en.

⁵⁶⁶ European Parliament, Resolution of 7 July 2016 on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) [2018] OJ C 101/138, 16 March 2018, para. 153, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html. ⁵⁶⁷ Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the European Disability Strategy (2017/2127(INI)), RR\1138289EN.docx, PE608.029v02-00 (Rapporteur: Wikström), 11 September 2017, para. 6, available at: https://www.europarl.europa.eu/doceo/document/A-8-2017-0339 EN.html#title5.

Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the European Disability Strategy (2017/2127(INI)), RR\1138289EN.docx, PE608.029v02-00 (Rapporteur: Wikström), 11 September 2017, para. 6.

⁵⁶⁹ European Parliament, Briefing (requested by the PETI Committee), 2018 Update of the Study on the Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 608.830, October 2018, p. 9, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/608830/IPOL_BRI(2018)608830_EN.pdf.

5. CONCLUSIONS AND KEY RECOMMENDATIONS

The previous chapters of this study have explored the content of the European Disability Strategy 2010-2020 and the actions taken within the framework of the current Strategy. They have also presented the many different opinions of key actors on the design and implementation of the Strategy, and the assessments and evaluations conducted by relevant EU institutions at various points during the course of the current Strategy. On that basis, the impact, achievements and shortcomings of the 2010-2020 Strategy have been assessed. This final chapter draws on the **study's** findings to present recommendations in relation to the design, scope and content of the new Strategy, as well as recommendations concerning the new **Strategy's** implementation, and the key infrastructure and changes necessary at EU and Member State level.

Both the substantive content of the post-2020 European Disability Strategy, and the mechanisms for implementation and monitoring of the new Strategy, are addressed in the recommendations in this chapter. The recommendations pay particular attention to implementation and monitoring. This is because it is submitted that the main shortcomings of the current European Disability Strategy stem from weaknesses in these two key areas. This is also reflected in the views of other scholars and stakeholders, as detailed throughout this study. Improved implementation and monitoring mechanisms can facilitate a better assessment of the impact of individual instruments, and this knowledge can help to inform changes and developments in the substantive content of the post-2020 Strategy.

Each sub-section in this chapter contains a number of recommendations for key stakeholders, including the Commission, the European Parliament and Member States. Each recommendation is firstly summarised in a sentence, and presented in a box. The study then describes the background and factors taken into account in formulating the recommendation. Lastly, the recommendation is given in full, with the institution or institutions at which the recommendation is directed being highlighted in bold. The full recommendation is indented and in italics.

Section 5.1 below sets out the authors' recommendations related to designing the European Disability Strategy post-2020, while section 5.2 puts forward recommendations related to the infrastructure that is necessary for the new Strategy to be embedded at EU and Member State level. Finally section 5.3 sets out the authors' recommendations related to implementing and monitoring the European Disability Strategy post-2020.

5.1 Designing the Strategy

This section considers the overall goal of the post-2020 European Disability Strategy, and the elements which need to be incorporated into its design in order to achieve that goal.

5.1.1 Overall Goal: Implementation of the CRPD



- •The CRPD, and other relevant UN instruments, should frame the design of the
- post-2020 European Disability Strategy

It is important that the CRPD frames the new Strategy, and that the Strategy has the goals of implementing the CRPD at EU level, in light of EU competences, and of supporting the implementation of the CRPD at Member State level. The new Strategy should be a clear EU strategy to implement the UN Convention, as called for by the European Parliament. Fro Ioannis Vardakastanis had called for the alignment to be done in a CRPD-driven way. The ratification of the CRPD by all Member States indicates the high level of commitment and consensus regarding the Convention across the EU, and the Strategy can support national implementation in numerous ways, including through EU legislation, funding for national activities and exchanges of best practice.

The design of the new Strategy should also ensure alignment with other relevant UN instruments, such as the SDGs and the 2030 Agenda, which the EU has committed to implementing in its internal and external policies.

It is recommended that the Commission ensure that the post-2020 European Disability Strategy reflects the human rights approach to disability endorsed by the CRPD, and that much clearer alignment is ensured between the priority areas and lines of action in the new Strategy, and the rights and obligations contained in the CRPD. The new Strategy should have the goal of implementing the CRPD at EU level and supporting Member States to implement the CRPD at national level. The Commission should also ensure that the new Strategy makes better connections with the goals of the SDGs, in particular.



- •The post-2020 European Disability Strategy should take account of the Concluding
- •Observations of the UN Committee on the Rights of Persons with Disabilities

A repeated refrain from the EU institutions, and CSOs and DPOs, on the European Disability Strategy 2010-2020 is that it should be tied more closely to the CRPD and serve to implement the UN Convention at EU level; and that it should support Member State implementation, particularly in light of the Concluding Observations issued by the UN Committee on the Rights of Persons with Disabilities. The Commission did not take the opportunity to rethink and relaunch the Strategy following the issuing of

⁵⁷⁰ See European Parliament, Report on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), 09 June 2016, para. 20, available at: http://www.europarl.europa.eu/doceo/document/A-8-2016-0203 EN.html.

⁵⁷¹ Ioannis Vardakastanis, presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

the Concluding Observations on the EU's initial report to the UN Committee in 2015 and the mid-term evaluation in 2017, although many commentators, including the European Parliament, ⁵⁷² called for this.

The recommendations of the UN Committee on the Rights of Persons with Disabilities to the EU, found in the 2015 Concluding Observations of the Committee, should be considered in full when drafting and revising the EU's post-2020 disability policy, including the new Strategy. The EU will be subject to another review by the UN Committee in the coming years, and is due to submit its next periodic report in January 2021.

It is recommended that the Commission take the **UN Committee's** Concluding Observations into account in full when drafting the new Strategy. Furthermore, the Commission should ensure that concrete actions in the new Strategy are linked to the Concluding Observations. Other EU institutions, including the European Parliament, should take the Concluding Observations into account when adopting Resolutions and Opinions on the new Strategy, or otherwise contributing to the discussion on, or assessing, the new Strategy.

5.1.2 Designing a Strategy to Implement the CRPD – Doing the Groundwork

Given that the new Strategy is expected to cover a decade, it is important to carry out appropriate groundwork to ensure that the Strategy has been well thought-through and developed. The mid-term evaluation and the final evaluation of the European Disability Strategy 2010-2020 are, of course, important elements in this respect, which will feed into the design of the new Strategy. However, it is also important that certain other actions are taken before the new Strategy is proposed and adopted. Moreover, during the negotiations on the next MFF, which will cover the period 2021-2027, account should be taken of the new European Disability Strategy, and the need to ensure an adequate budget to implement the Strategy.



- •Involve persons with disabilities and other key stakeholders in the design of the post-2020
- European Disability Strategy

As highlighted by the UN Committee on the Rights of Persons with Disabilities, it is important to ensure that persons with disabilities, through their representative organisations, participate in the process leading to the adoption of all new legislation and policy at EU level.⁵⁷³ This general obligation is also contained in Article 4(3) CRPD, which, as highlighted in chapter 2 above, requires close consultation with, and active involvement of, persons with disabilities through their representative organisations, in the development and implementation of legislation and policies to implement the CRPD, and in all

⁵⁷² See generally European Parliament, Report on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)), 09 June 2016, available at: http://www.europarl.europa.eu/doceo/document/A-8-2016-0203 EN.html.

⁵⁷³ UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 29.

other decision-making processes related to their rights. This is also emphasised in General Comment No. 7 of the UN Committee on the Rights of Persons with Disabilities, on participation.⁵⁷⁴

The Commission has engaged in a number of public consultations, and consultations with CSOs and DPOs, over the course of the current Strategy, and the engagement of the EU institutions with key stakeholders was praised by the International Disability Alliance during the event 'Shaping the EU Agenda for Disability Rights 2020-2030'. Tremains important to engage with such organisations in drafting the new Strategy.

Taking the above into account, it is recommended that the Commission set up a forum for 'structured dialogue' between the EU and organisations representing persons with disabilities, to discuss the design of the new Strategy, as recommended by the UN Committee on the Rights of Persons with Disabilities,⁵⁷⁶ and the European Parliament,⁵⁷⁷ among others.⁵⁷⁸ The forum should include the Commission and EDF, as the umbrella organisation representing the interests of people with disabilities and their families, as well as relevant DPOs and CSOs which were involved in the public consultation on the European Disability Strategy 2010-2020. The Commission should consider what format such a forum for structured dialogue should take, but it needs to be accessible and inclusive, guaranteeing that individuals with different types of disabilities are adequately represented. Individuals with disabilities should be actively involved and closely consulted, including on the design of actions for the new Strategy targeted at reducing the impact of the current pandemic on various aspects of their daily lives.



•Map EU and Member State competences regarding the CRPD

As noted above, the CRPD is a mixed agreement, which means that both the EU and its Member States have relevant competences or powers to implement the UN Convention. While the EU and its Member States have taken on all of the obligations set out in the CRPD in combination, the exact division of competences and responsibilities can be difficult to determine. For some areas where competences are shared, a joint approach or joint action may help to facilitate implementation in full. Commissioner

⁵⁷⁴ UN Committee on the Rights of Persons with Disabilities, General Comment No. 7 on the participation of persons with disabilities, including children with disabilities, through their representative organizations in the implementation and monitoring of the Convention, 9 November 2018, CRPD/C/GC/7.

⁵⁷⁵ Ana Lucia Arellano, International Disability Alliance Chair, presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

⁵⁷⁶ The CRPD Committee recommended the establishment of a structured dialogue in its Concluding Observations: UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1, para. 15.

⁵⁷⁷ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 130, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁵⁷⁸ loannis Vardakastanis also made a similar recommendation in his presentation at **the conference 'Shaping the EU Agenda** for Disability Rights 2020-**2030', Brussels, 26 February 2020.**

Helena Dalli has asserted that the new Strategy will focus on areas where the EU can be most effective in its actions.⁵⁷⁹

Consequently, and preceding the adoption of the new Strategy, it is recommended that the Commission conduct an extensive mapping of the respective competences of the EU and the Member States – not only exclusive competences but also shared competences – with a view to adopting a Strategy which is not only respectful of those competences but which, through combined action of the EU and the Member States, facilitates implementation in full of the CRPD. In this regard, there would be a role for the Council Working Group on Human Rights, which addresses the human rights aspects of the external relations of the EU. The Commission should ensure that the new Strategy is accompanied by a 'revised declaration of competences', as previously suggested by the European Parliament, in order to determine how best the EU can work alongside its Member States to implement the CRPD via the post-2020 Strategy.



•Review and map EU law and policy in light of the CRPD

As highlighted throughout this study, there is currently no clear overview of the alignment and compatibility of EU laws and policies with the CRPD. Indeed, it was noted earlier in this study⁵⁸¹ that Petition 0530/2018,⁵⁸² which was submitted to the Committee on Petitions of the European Parliament, alleged incompatibility of the GDPR with the requirements of the CRPD.

Prior to adopting the new Strategy, it is recommended that the Commission carry out a comprehensive review of European law and policy in light of the EU's obligations under the CRPD, taking account of the Concluding Observations issued to the EU by the UN Committee on the Rights of Persons with Disabilities in 2015. This review and mapping exercise should identify the compatibility of existing EU instruments with the UN Convention, and areas where further action is needed in order to achieve compliance. The post-2020 European Disability Strategy should then provide for a workable schedule of substantive revisions of existing EU law and policy in light of the identified gaps and weaknesses.



•Establish a baseline data set and indicators, and support the ongoing collection and compilation of data on the situation of people with disabilities

⁵⁷⁹ Commissioner Helena Dalli, presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

⁵⁹⁰ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 120, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁵⁸¹ See sub-section 4.1.4 above.

⁵⁸² Petition 0530/2018 by J.S. (Swedish) on the General Data Protection Regulation (GDPR) influencing access to internet for persons with disorders.

Eurostat and ANED have made important contributions to the collation and presentation of data concerning people with disabilities, in both the EU as a whole and individual Member States, over much of the course of the European Disability Strategy 2010-2020. Much of the relevant information has been extracted from EU-SILC data. However, the amount of data identifying the situation of people with disabilities, including in comparison with the situation of people without disabilities, remains quite limited. Disability-specific data is important for both the design and implementation of the post-2020 European Disability Strategy, and numerous organisations, including the European Parliament and the UN Committee on the Rights of Persons with Disabilities, as well as various CSOs and DPOs, have referred to the importance of collecting disability-specific data over the course of the European Disability Strategy 2010-2020.

The collation and presentation of data on the situation of people with disabilities can contribute to both developing and monitoring the new Strategy. This is because the data can serve two purposes: helping to identify priority areas of action, at both EU and Member State level, for the new Strategy; and providing a baseline against which to assess changes and progress over the course of the new Strategy. The lack of adequate baseline data has hampered evaluations and assessments of the European Disability Strategy 2010-2020, which have often focused on the taking of various listed actions, rather than changes in the situation of people with disabilities and the wider environment.

It is recommended that the Commission ensure that the post-2020 European Disability Strategy starts from a clear baseline data set, which can be used both to identify priority areas of action and monitor developments related to the new Strategy. The Commission should also ensure that adequate benchmarks are put in place, and that data is collected based on a set of disaggregated, comparable qualitative and quantitative indicators on disability. CRPD-compliant disability indicators, disaggregated on the basis of sex, age and type of impairment, should be included in the data collected by Eurostat and in any future evaluations of the new Strategy. Indicators should be developed in conjunction with people with disabilities and their representative organisations.



•Identify and periodically update the first list of actions (implementation plan) for the new Disability Strategy

The adoption of the European Disability Strategy 2010-2020 was accompanied by a list of actions, linked to the priority areas, covering the period 2010-2015. The intention was that a second list of action covering the period 2016-2020 would be published following a mid-term evaluation. However, a second list was never published.

In order to ensure transparency and a plan of action to achieve the Strategy's objectives, it is recommended that the Commission ensure that a first list of actions is published when the new Strategy is adopted, and this is reviewed and updated following a mid-term evaluation. It is important that the list of actions consist of clear, measurable actions which are linked to a

specific timeframe, and that it indicates the responsible actors. This will be important both in implementing and monitoring the new Strategy.

The five recommendations outlined above (involve persons with disabilities and other key stakeholders in the design of the new Strategy; review and map EU law and policy in light of the CRPD; map EU and Member State competences regarding the CRPD; establish a baseline data set as well as indicators, and support the ongoing compilation of data on the situation of people with disabilities; and finally identify the first list of actions (implementation plan) and periodically update it) should be undertaken before the adoption of the new Strategy, with a view to informing its content and fulfilling its overall aim, which should be implementation of the CRPD in the EU.

5.1.3 Scope and Content of the New Strategy

The EU CRPD Monitoring Framework has called for a new European Disability Strategy that is 'more robust and ambitious' in its scope and its impact,⁵⁸³ and which covers all CRPD articles. In line with stakeholder recommendations, Commissioner Dalli has committed to presenting a 10-year post-2020 Strategy covering the entire CRPD, and the Commission has ensured that it will 'actively consult with sector organisations' in the preparation and implementation of the new Strategy.⁵⁸⁴

This sub-section reflects on issues related to the scope and content of the post-2020 European Disability Strategy, and makes some specific recommendations in that regard.



• Maintain the existing priority areas of action

The 2019 public consultation on the European Disability Strategy revealed that the majority of respondents regarded the eight priority areas of action covered by the 2010-2020 Strategy to be of ongoing relevance. With the exception of external action, all areas of action were regarded as relevant for future activities by between 74% and 78% of respondents. External action was regarded as having an ongoing relevance by 55% of respondents. Given the broad nature of the eight priority areas in the current Strategy and fairly consistent levels of support from stakeholders for addressing these areas, they can be regarded as also being of relevance for the new Strategy.

It is recommended that the Commission 'build upon and integrate what has been achieved under the current Strategy when preparing the next Strategy'. This entails maintaining the existing priority areas of action, although some fine-tuning in terms of the specific areas covered

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⁵⁸³ Jakub Pawlowicz, Legal Officer at the Office of the European Ombudsman, **presentation at the conference 'Shaping the EU** Agenda for Disability Rights 2020-**2030', Brussels, 26** February 2020. See also European Disability Strategy Post-2020: Contribution from the EU CRPD Monitoring Framework, Brussels, 16 February 2020, available at: https://fra.europa.eu/sites/default/files/fra uploads/contribution-eu-framework-post-2020-disability-strategy en.pdf.

 ⁵⁸⁴ See: https://agenceurope.eu/en/bulletin/article/12522/21.
 585 Furopean Disability Strategy Post-2020: Contribution from the ELLCRPD

⁵⁸⁵ European Disability Strategy Post-2020: Contribution from the EU CRPD Monitoring Framework, Brussels, 16 February 2020, p. 5.

may be needed. In particular, account should be taken of the social, economic and health impacts of the COVID-19 crisis on people with disabilities and their families. The impact of the current pandemic on the right to the highest attainable standard of health on a non-discriminatory basis, as well as on the situation of persons with disabilities (including older persons with disabilities) living in residential institutions, and on equality in education, should be addressed specifically in the new Strategy.

It is also recommended that the Commission ensure that the actions linked to the new Strategy implement the priority areas across the board, and the somewhat uneven implementation of actions in the eight priority areas that occurred during the course of the current Strategy should be avoided.



• Add a new priority area for action: Citizenship rights

Some stakeholders regarded political participation and Citizenship rights as particularly important issues over the course of the last Strategy. As noted in chapter 2 of this study, the European Disability Strategy 2010-2020 acknowledges that there are 'many obstacles preventing people with disabilities from fully exercising their fundamental rights – including their Union citizenship rights – and limiting their participation in society on an equal basis with others'. The current Strategy mentions the exercise of participation rights by people with disabilities as political actors; however, it does not address the issues of mobility and free movement to any great extent, other than requiring the EU institutions to promote dialogue on the portability of rights in the DHLG, and to identify the obstacles encountered by people with disabilities in the exercise of the right to free movement and residence. The EU institutions have already taken policy measures aimed at addressing mobility and free movement issues through the pilot European Disability Card, but further action in this field is desirable. In this respect, the European Parliament has recommended that the Commission extend the material scope of the European Disability Card and that it extend it to all EU Member States.

In light of the above, it is recommended that the Commission include a new priority area in the post-2020 European Disability Strategy, **entitled** 'Citizenship rights'. This priority area should cover political participation (the right to vote and stand for election), and free movement issues,

⁵⁸⁶ See, for instance, EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 6, available at: http://www.edf-feph.org/disability-strategy-europe-2020. See also European Economic and Social Committee, Shaping the EU Agenda for Disability Rights 2020-2030: A Contribution from the European Economic and Social Committee, Doc. No. SOC/616-EESC-2019, (Rapporteur: Vardakastanis, own-initiative Opinion), 11 December 2019, chapter 1, available at: https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/shaping-euagenda-disability-rights-2020-2030-contribution-european-economic-and-social-committee-own-initiative-opinion.

⁵⁸⁷ European Disability Strategy 2010-2020, p. 5.

⁵⁸⁸ European Disability Strategy 2010-2020, p. 5.

In 2019, the European Commission started the assessment process of the initiative. The assessment study will provide a comprehensive and concise review, analysis and assessment of the implementation of the pilot project, to facilitate the possible wider implementation of the disability card in the EU. See: https://ec.europa.eu/social/main.jsp?catId=1139.

including the scope for mutual recognition or harmonisation of disability assessments,⁵⁹⁰ and the portability of social supports.



Adopt a cross-sectoral approach, addressing gender and intersectionality

The European Disability Strategy 2010-2020 has been repeatedly criticised, by the European Parliament in particular, for failing to include an integrated gender perspective or pay sufficient attention to gender-specific issues.⁵⁹¹ In addition, the needs of people with complex support needs and their families were not adequately considered under the current Strategy. Moreover, limited attention was paid to intersectionality generally in the current Strategy, including the situation of persons with disabilities who come from ethnic minority backgrounds, older people with disabilities, children with disabilities, refugees and other migrants with disabilities, and people with disabilities who are Lesbian, Gay, Bisexual, Transgender, Queer and/or Intersex. However, the fact that the new Gender Equality Strategy 2020-2024⁵⁹² pays attention to the situation of women and girls with disabilities is a welcome indicator that more attention is now being paid to intersectionality at EU level.

It is recommended that the Commission ensure that the new Strategy adopts a cross-sectoral approach to disability and that, in particular, a gender perspective is mainstreamed in the Strategy. The specific needs of women and children with disabilities should be integrated in the new Strategy, and the needs of specific groups of people with disabilities, including people with intellectual disabilities, those with invisible disabilities, older people with disabilities and homeless people with disabilities, LGBTI+ persons with disabilities, as well as refugees and other migrants with disabilities should be targeted by the actions in the new Strategy. Addressing gender specifically in the new Strategy would be in line with Article 6 CRPD, and including consideration of the needs of other specific groups would be in line with the intersectional approach to disability taken in the CRPD. 593 In order to ensure that this cross-sectoral approach is followed through, disability rights should also be mainstreamed in the Youth Guarantee, and also in other relevant group-specific EU strategies. Disability considerations should also be included in the reform of the Common European Asylum System.

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⁵⁹⁰ Ioannis Vardakastanis, also made a similar recommendation in his presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

⁵⁹¹ European Parliament, Resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020 (2010/2272 (INI)) OJ C 131 E/9, para. 5, available at: https://op.europa.eu/en/publication-detail/-/publication/20f5cc9b-b820-11e2-ab01-01aa75ed71a1/language-en.

European Commission, Communication from the Commission to the European Parliament, the Council, The European Economic and Social Committee and the Committee of the Regions A Union of Equality: Gender Equality Strategy 2020-2025, COM(2020) 152 final, Brussels, 5 March 2020, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2020%3A152%3AFIN.

⁵⁹³ See Preamble, para. p, CRPD.



Address autonomy and legal capacity

A number of DPOs, including EDF⁵⁹⁴ and Inclusion Europe,⁵⁹⁵ have previously called for the European Disability Strategy 2010-2020 to pay greater attention to autonomy and legal capacity of persons with disabilities. While it is important to note that this is an area where the EU has limited competences, the EU does have the possibility to support Member State action in this area through, for example, through facilitating exchanges of best practice.

It is recommended that the Commission pay attention to issues related to autonomy and legal capacity of certain groups of individuals with disabilities in the priority area of participation under the new Strategy, and the Commission should give due consideration to fostering good practice and exchange of knowledge on supported decision-making in the implementation plan for the new Strategy and making recommendations as appropriate. Given the limited competences which the EU has in this area, legal capacity should not become one of the main priority areas of action under the new Strategy, but due attention needs to be paid to this issue.



• Participation should be a cross-cutting priority area of the new Strategy

Rather than only being a stand-alone area in the Strategy, participation of people with disabilities should be a cross-cutting consideration, in order to mainstream adequately CRPD rights throughout each priority area of the new Strategy. Ensuring full and effective participation and inclusion in society is a general principle and cross-cutting objective of the CRPD set out in Article 3(c). Participation is also a key objective of the EU's fundamental rights framework. In that regard, and as acknowledged in the current European Disability Strategy, 596 Article 26 CFR states that the EU recognises and respects the right of persons with disabilities to benefit from measures designed to ensure, among others, their participation in the life of the community. The current Disability Strategy also recognises that the full economic and social participation of people with disabilities is essential if the Europe 2020 Strategy is to succeed in creating smart, sustainable and inclusive growth. 597

The 2010-2020 European Disability Strategy mentions participation as a cross-cutting objective relatively little on the whole. However, it does place emphasis on participation of people with

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⁵⁹⁴ EDF, EDF's Response to the Consultation on the Review of the European Disability Strategy, Brussels, March 2016, p. 6, available at: http://www.edf-feph.org/disability-strategy-europe-2020.

⁵⁹⁵ Inclusion Europe, Inclusion Europe's Contribution to the Mid-term Review of the European Disability Strategy, Brussels, 2016, pp. 4 and 14, available at: http://inclusion-europe.eu/wp-content/uploads/2015/03/IE submission EDS final1.pdf.

⁵⁹⁶ European Disability Strategy 2010-2020, p. 3.⁵⁹⁷ European Disability Strategy 2010-2020, p. 4.

disabilities in the context of education, whereby the Strategy states that EU action will support (through the ET 2020) national measures related to reporting on participation and outcome rates.

It is recommended that the Commission place a stronger focus on participation as a crosscutting theme in all priority areas of action in the post-2020 European Disability Strategy. In that regard, cross-references should be inserted in the new Strategy to relevant CRPD obligations.



• Address new areas of importance: Digital inclusion and new technology

The drafting of the new Strategy provides the opportunity to address areas which may not have been of particular significance in 2010, but which have now acquired that status. One such area is digital inclusion and new technologies, which can provide both opportunities and challenges for people with disabilities.⁵⁹⁸

The European Economic and Social Committee has recently published an Opinion on this issue, emphasising that 'these technologies often require skills and resources that are not available to everyone', including people with disabilities.⁵⁹⁹ Thus, the 'real involvement of social economy and civil society organisations is imperative to ensure that the huge opportunities offered by the new technologies are geared towards delivering benefits, access, transparency and participation for all, and not just for a new "digital economy elite"'.⁶⁰⁰

According to Henriette Geiger, Director of the Directorate for People and Peace at DG DEVCO, assistive technology is a key issue necessitating a massive global investment, and a major pillar for jobs and growth.⁶⁰¹ The EU CRPD Monitoring Framework has argued that the new Strategy should show commitment to keeping the costs of assistive technology affordable for persons with disabilities.⁶⁰²

It is recommended that the Commission pay due attention in the new Strategy to digital inclusion and new technologies, including affordable assistive technologies. The relevance of digital inclusion and new technologies should be considered, in particular, in the context of the current pandemic, whereby the inaccessibility of certain virtual environments – including virtual educational environments – is resulting in further inequalities for persons with disabilities. The relevance of digital inclusion and new technologies should also be considered in the context of

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⁵⁹⁸ European Economic and Social Committee, Blockchain and Distributed Ledger Technology as an Ideal Infrastructure for the Social Economy? INT/880 (Rapporteur: Guerinin, own-initiative Opinion), 17 July 2019, available at: https://www.eesc.europa.eu/de/node/66536.

⁵⁹⁹ European Economic and Social Committee, Blockchain and Distributed Ledger Technology as an Ideal Infrastructure for the Social Economy? INT/880 (Rapporteur: Guerinin, own-initiative Opinion), 17 July 2019, para. 5.10.

⁶⁰⁰ European Economic and Social Committee, Blockchain and Distributed Ledger Technology as an Ideal Infrastructure for the Social Economy? INT/880 (Rapporteur: Guerinin, own-initiative Opinion), 17 July 2019, para. 1.8.

⁶⁰¹ Henriette Geiger, Director of the Directorate for People and Peace at DG DEVCO Presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

⁶⁰² European Disability Strategy Post-2020: Contribution from the EU CRPD Monitoring Framework, Brussels, 16.02.2020, p. 18, available at https://fra.europa.eu/sites/default/files/fra_uploads/contribution-eu-framework-post-2020-disability-strategy_en.pdf.

promoting independent living for persons with disabilities, and their potential increased use in future risk situations or humanitarian emergencies and natural disasters should be considered. Since digital inclusion and new technologies are fields which are relevant in many areas, including participation, employment and education, they should be addressed as cross-cutting issues across the priority areas in the new Strategy, although it is not recommended that digital inclusion and the use of new technologies become a new priority area in the post-2020 European Disability Strategy.



•Address, to a greater extent, awareness-raising and combating stereotypes and stigma

Awareness-raising is one of the four sets of general implementation measures foreseen under the European Disability Strategy 2010-2020. Nevertheless, awareness-raising was identified as an area where more could have been done under the Strategy by the European Parliament⁶⁰³ and various CSOs and DPOs,⁶⁰⁴ and limited understanding by policy makers and limited public awareness were identified as factors hampering progress by many respondents to the 2019 public consultation. According to Priestley, many negative attitudes towards people with disabilities stem from the fact that people with disabilities and people without disabilities are forced into 'separate spaces', and therefore the social dimensions of stigma must be targeted, through inclusive education and employment in the mainstream, among others.⁶⁰⁵

According to the EU CRPD Monitoring Framework, the new Strategy should also pay attention to the media, which can be 'very effective in reshaping perceptions of disability, promoting diversity and tackling stigma around disability', and it 'should foresee actions to support DPOs in raising awareness of the barriers still faced by persons with disabilities, including invisible disabilities, and to break stereotypes'. 606

It is recommended that the Commission address in detail awareness-raising and combating stereotyping and stigmatisation of people with disabilities in the new Strategy, and in its implementation plan, including, in particular, stereotyping and stigmatisation of people with intellectual disabilities and people with psycho-social disabilities. This is in line with the model of inclusive equality that underpins the CRPD and Article 8 CRPD specifically. The new Strategy should aim to target structural disability discrimination. This element of the new Strategy should be wide-ranging, and should address awareness-raising regarding disability among the general

⁶⁰³ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 118, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁶⁰⁴ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, p. 9, available at: http://www.edf-feph.org/sites/default/files/edf disability rights agenda position 0.doc.

⁶⁰⁵ Mark Priestley, Professor of Disability Policy at Leeds University, presentation at the conference 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26.2.2020.

⁶⁰⁶ European Disability Strategy Post-2020: Contribution from the EU CRPD Monitoring Framework, Brussels, 16.02.2020, p. 21, available at: https://fra.europa.eu/sites/default/files/fra_uploads/contribution-eu-framework-post-2020-disability-strategy_en.pdf.

public, including employers and service providers; awareness-raising amongst disabled people of their rights under the CRPD, EU and national law; and, significantly, should include training of EU and Member State officials and policy makers regarding the CRPD and relevant EU law and policy. This training should be tailored to the particular work carried out by these officials, with a particular focus on training of officials responsible for implementing and monitoring the use of EU funds, such as the SIF, in light of the CRPD, and other relevant EU provisions, taking into account the challenges brought to the forefront by the current pandemic. Initiatives to raise awareness about the possibility to use public procurement to improve accessibility for people with disabilities should also be supported at the national level. At the EU level, training and awareness-raising regarding the scope for mainstreaming disability in policy areas where this currently does not happen is important. Individuals with disabilities themselves, through DPOs, should be involved in planning and delivering the awareness-raising and training.



•Conclusion of the Optional Protocol to the CRPD by the EU

The UN Committee on the Rights of Persons with Disabilities has expressed its concern at the failure of the EU to conclude the OP-CRPD, and has called on the EU to ratify (or conclude) the Convention. Likewise, the European Parliament's Committee on Petitions has also called on the EU to conclude the OP-CRPD and considers that its own role should be clarified and recognised in the Committee on Petitions' Rules of Procedure before the conclusion of the Protocol. The conclusion by the EU of the OP-CRPD would provide an important avenue of complaint for EU citizens in the event of non-compliance by the EU institutions with the CRPD, as they could take their complaint directly before the UN Committee. It is recognised, however, that conclusion of the OP-CRPD would require unanimity in the Council, under Article 19(1) TFEU in combination with Article 218(8) TFEU. Thus, each Member State would have a veto on the accession of the EU to the OP-CRPD.

It is recommended that the Council take the necessary measures to ensure conclusion of the OP-CRPD; however, the challenges in implementing this recommendation are acknowledged.

⁶⁰⁷ See UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 02 October 2015, CRPD/C/EU/CO/1, paras. 6-7.

⁶⁰⁸ European Parliament, Report of 30 October 2017 on implementation of the European Disability (2017/2127(INI), Opinion of the Committee on Petitions for the Committee on Employment and Social Affairs on the implementation of the UN Convention on the Rights of Persons with Disabilities with special regard to the Concluding Observations of the UN CRPD Committee (2015/2258(INI)) (Rapporteur: Wikström), 11 September 2017, para. 13, available at: http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2016-0203&language=EN.

5.2 Institutional Infrastructure for the Post-2020 European Disability Strategy

5.2.1 Embedding the New Strategy within the Infrastructure of the EU

It is important that the new Strategy is not a standalone policy instrument. Given the potential disability dimension to many areas of EU action and policy-making, it is essential that the Strategy is taken into account across the wide range of EU actions, and that disability is mainstreamed across all relevant policy areas and integrated within important policy instruments. In order to achieve this, institutional structures need to be set up and existing structures need to be modified to embed the Strategy and its goals within the infrastructure of the EU.



- •Set up focal points in each EU institution, Commission Directorate-Generals and EU
- agencies

A repeated recommendation of many stakeholders⁶⁰⁹ when commenting on the current Strategy, and reflecting on the new Strategy, and which is repeated here is as follows:

It is recommended that each EU institution and agency establish DFPs with responsibility for implementing the Strategy. These focal points could also have the task of supporting CRPD implementation within the relevant institution or Commission DG. In light of the transversal action necessary for implementation of the Strategy, and to ensure careful coordination of the EU internal action with that of the EU External Action Service, the main DFP should be in the **Commission's Secretariat**-General. The establishment of such focal points should facilitate the mainstreaming of disability across the work of the EU, including in areas of EU action and policy which, to date, have not embraced a mainstreaming approach, such as consumer policy.

Moreover, it is recommended that the Commission set up a particularly strong DFP within DG JUST. That focal point should cooperate with, and support, the work of the Equality Commissioner, who has been tasked with leading implementation of the CRPD and with working closely with all Commissioners to achieve this aim.⁶¹⁰ All other DGs should also have a DFP.

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⁶⁰⁹ See, for example: http://www.edf-feph.org/newsroom/news/edf-responds-review-european-disability-strategy-2010-2020. See also European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, paras. 1.13, 3.3.1 and 3.3.3, available at: https://www.eesc.europa.eu/our-work/opinions-information-reports/opinions/concluding-observations-un-crpd-committee-european-union-new-strategy-persons-disabilities-european-union.

⁶¹⁰ Mission Letter from President Von der Leyen to Helena Dalli, available at https://ec.europa.eu/commission/commissioners/2019-2024/dalli_en.

Furthermore, it is recommended that the European Parliament establish DFPs (i.e. appoint individual MEPs) in each of the thirteen committees currently represented in the CRPD Network⁶¹¹ of the Parliament and locate a DFP within the office of the Secretary General. The relevant committees include, amongst others, the Committees on Employment and Social Affairs; Human Rights; Civil Liberties, Justice and Home Affairs; Petitions; and Legal Affairs; and within the administration. The current Network is an inter-committee network on the implementation of the CRPD, but has not been particularly active in the past two years. One Vice President of the European Parliament should also be assigned the role of DFP, and become the Chair of the Network. The Network's work should be expanded to monitoring and supporting the implementation of the post-2020 European Disability Strategy, and its name should reflect this. The Network should collaborate with the Disability Intergroup in the Parliament. The Network should be supported by staff at the Parliament, and DFPs should also be appointed at the level of the administration. The coordinating DFP should be located within the Secretary General, and nominated specialists in each DG of the Parliament should support the DFPs.

It is acknowledged that establishing DFPs in the Council is more challenging than for the other two main institutions, given that there are no fixed members of the Council. However, it is recommended that a senior civil servant be assigned the task of DFP for nine of the ten different figurations of the Council,⁶¹² and that the civil servant have the task of working with the relevant Presidency of the Council regarding issues related to the post-2020 Disability Strategy and CRPD. The President of the Council should have a DFP located within his/her office.

Lastly, it is recommended that the respective Presidents of the Commission, Parliament and Council meet at least once every six months to discuss disability-related issues, including the implementation of both the CRPD and the post-2020 European Disability Strategy.



- •Adopt a systematic approach to disabilty mainstreaming and identify EU officials
- •responsible for ensuring disability mainstreaming

Mainstreaming of disability across EU policy fields and actions is a particularly important means of addressing disability-related issues. An increase in disability mainstreaming has been observed in some areas, including in the European Semester process, over the course of the European Disability Strategy 2010-2020. However, the EU has not established a 'systematic approach' to mainstreaming. The UN Committee on the Rights of Persons with Disabilities made this point with regard to the EU's international cooperation policies and programmes.⁶¹³ Moreover EDF has noted that the European

⁶¹¹ See: https://www.europarl.europa.eu/committees/en/product-details/20170322CDT01321

⁶¹² It is not suggested that the Agriculture and Fisheries Council have such a civil servant.

⁶¹³ See UN Committee on the Rights of Persons with Disabilities, Concluding Observations on the Initial Report of the European Union, 02 October 2015, CRPD/C/EU/CO/1, para. 4.

Disability Strategy 2010-2020 did not succeed in mainstreaming disability across all relevant policy areas, and that several general measures were adopted that did not mainstream disability.⁶¹⁴

In its 2017 Resolution, the European Parliament reminded the Commission of its duty 'to mainstream disability and develop and promote accessibility in all policy areas in both public and private sectors', and recommended 'setting up units with expertise in accessibility within the hierarchy of the Commission to verify that this duty is being accomplished'.⁶¹⁵ In its June 2020 Resolution, the Parliament also called on the Commission expert Task Force for Equality, under the supervision of the Commissioner for Equality, to 'systematically mainstream' the rights of persons with disabilities in all relevant EU laws, decisions, policies and programmes.⁶¹⁶

It is recommended that, under the new Strategy, a systematic approach to mainstreaming is established. This should ensure that a disability dimension is considered and, where appropriate, acted on through the inclusion of disability-specific provisions, clauses and references in EU instruments, including EU legislation, is established. As the Commission is the primary initiator of legislative and policy proposals, it is particularly important that disability mainstreaming is considered when proposals are drafted. However, the Council and Parliament, as colegislators, also have an important role to play in ensuring that disability mainstreaming occurs. In this respect, the above mentioned DFPs in these institutions can have an important role to play. Within the Commission, each DG should appoint an identified expert who has responsibility for disability mainstreaming. This individual should also participate in the DFPs which have responsibility for implementing the Strategy.

It is also recommended that units with expertise in accessibility be set up by the Commission. Such units should coordinate their actions with working groups on accessibility within the Commission, such as the Web Accessibility Directive Expert Group, which supports the implementation of the relevant Directive, facilitating cooperation between the Member States and relevant stakeholders.



•Set up an inter-institutional coordination mechanism

The implementation of the actions related to the post-2020 European Disability Strategy, and the implementation of the CRPD itself, requires close coordination between the main EU institutions. In

⁶¹⁴ **EDF, EDF's Response to the Consultation** on the Review of the European Disability Strategy, Brussels, March 2016, p. 13, available at: http://www.edf-feph.org/disability-strategy-europe-2020.

⁶¹⁵ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 2, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁶¹⁶ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 29, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

addition, close coordination is required to ensure coherence in implementation of the new Strategy with the implementation of EU law and policy as a whole.

It is recommended that the European Commission, Parliament and Council establish an inter-institutional coordination mechanism with a view to supporting the implementation of the post-2020 European Disability Strategy. Moreover, while a coordination mechanism is not required under the CRPD, it is desirable, and such an inter-institutional coordination mechanism at EU level could also facilitate implementation of the CRPD via the Strategy. The coordination mechanisms should be composed of all of the DFPs, and oversee the implementation of the new Strategy.



- Participation of disabled persons organsiations and other civil society groups in the
- •design and implementation of the post-2020 Strategy should be regulated by a code of
- •conduct/guidelines

Participation of people with disabilities, through their representative organisations, should be ensured not only in the design of the new Strategy, but also in its implementation and monitoring, and this participation should be structured coherently. Structured dialogue with CSOs and social partners should also be ensured.

In view of the above, it is recommended that the Commission adopt guidelines/a code of conduct for the participation of civil society, DPOs and social partners, to structure participation at all stages of the Strategy's design, implementation and monitoring. Those guidelines should be based on the general principles and minimum standards of stakeholder consultation contained in the Commission's Better Regulation Guidelines,⁶¹⁷ which should be tailored to participation of relevant organisations in the design and implementation of the post-2020 European Disability Strategy.



•Ensure interaction between the new Strategy and other EU instruments and programmes

The EU has numerous instruments and programmes which operate in fields which are expected to be covered by the new Strategy, such as employment, social protection and education. In some cases, these instruments and programmes already explicitly include a disability dimension, as in the case of the European Pillar of Social Rights, although this is not always the case. There is scope for greater complementarity between EU instruments and programmes, and the new Strategy. In brief, it is important that all relevant EU instruments and programmes are utilised to achieve the goals of the new

⁶¹⁷ See: https://ec.europa.eu/info/files/better-regulation-guidelines_en.

Strategy. The following paragraphs identify how this can be done with regard to specific EU initiatives, instruments and programmes.

Ensuring that all funding programmes are accessible and include a separate budget for accessibility:⁶¹⁸ The EU has a wide range of funding programmes, covering areas as diverse as infrastructure construction, research and training, education, and employment support. It is important that accessibility, following a universal design approach, and in line with Article 9 CRPD, is a core principle underlying all EU funding schemes, and this should be linked to the goals of the new Strategy.

It is recommended that the Commission ensure that all proposals for EU funding programmes take disability accessibility into account, and this is supported by the Council and Parliament when the relevant legislation and programmes are adopted. In administering the programmes, the Commission should ensure that persons with disabilities are supported to participate through accessibility budgets, including a budget to cover the cost of individual reasonable accommodations, and that accessibility is addressed in an appropriate way more generally. The Commission should disseminate information about the accessibility budget widely, and ensure that the application process is simple and straightforward.

Ensuring that the Charter on Fundamental Rights of the European Union is used to its full potential to protect the rights of persons with disabilities: As noted above, ⁶¹⁹ the CFR contains a number of provisions which are of particular importance for people with disabilities: Article 20, which provides for the right to equality before the law; Article 21(1), which contains an all-embracing prohibition of discrimination; and Article 26, setting out the right of persons with disabilities to benefit from measures to ensure their independence, social and occupational integration and participation in the life of the community. The Charter as a whole is also of relevance for disabled persons, as its provisions apply to all EU citizens and residents.

It is recommended that the Commission (DG JUST) address disability and the rights of persons with disabilities in its New Strategy for the Implementation of the Charter of Fundamental Rights, which is to be published later this year. The New Strategy will aim at improving awareness and the effective use of the Charter in the EU so that it becomes a reality for all, and it is important that the situation of disabled people is explicitly addressed in these contexts. The New Strategy should support the work of actors involved in the CFR's enforcement; focus on awareness raising, training and guidance that can be provided by the EU; and foster mutual learning through best practices. Disability-related issues must be addressed in all these areas.

Ensuring coherence between the new Strategy and implementing the goals of the European Pillar of Social Rights: The Social Pillar addresses three core themes – equal opportunities and access to the labour market, fair working conditions, and social protection and inclusion – which are all relevant to people with disabilities. Right 17 of the Pillar explicitly addresses the inclusion of people

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⁶¹⁸ See European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 7, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

 $^{^{620}}$ European Commission. Roadmap, New Strategy for the Implementation of the Charter of Fundamental Rights, Ref. Ares (2020) 1655297 – 19 March 2020.

with disabilities in the labour market and in society more generally. Nevertheless, persons with disabilities remain disadvantaged compared to persons without disabilities across the broad scope of the rights covered by the Social Pillar, including priority areas in the current Strategy, such as employment, education and social protection. Notably, Commissioner Helena Dalli has stated that the Social Pillar 'will remain the compass for upward convergence, even more so in times of crisis. Its principles, and in particular those of its third chapter "Social Protection and social inclusion" should be at the heart of our response to social challenges in the EU'.⁶²¹ In that light, the new Strategy can provide the impetus for further action in the areas mentioned above.

It is recommended that the Commission and other EU institutions (as relevant) adopt a strong disability mainstreaming approach when following up on the Social Pillar, and ensure that this is linked to the new European Disability Strategy. ANED has explored how this can be done, across all of the principles of the Social Pillar, and noted that it will require the active engagement of the EU institutions, the Member States, social partners and civil society, including organisations of persons with disabilities. The scope for exploring the use of disability-related indicators within the Social Scoreboard, consisting of key indicators to measure progress with regard to some of the rights under the Social Pillar, should also be explored.

It is also recommended that the post-2020 European Disability Strategy specifically address the impact of the current pandemic on the rights of disabled people to social protection and social inclusion, as provided for in the Social Pillar.

Ensuring links between the post-2020 European Disability Strategy **and the EU's mechanis**m on economic governance, the European Semester, the post-Europe 2020 Strategy, and the Sustainable Development Goals: The Commission is currently reviewing the mechanisms it uses for economic and fiscal surveillance, ⁶²³ including the European Semester process, which has been used in the framework of the EU 2020 Strategy. The European Semester was established in 2010 as the EU's strategic economic policy coordination mechanism. It addresses the public finances of the Member States and includes a strong focus on employment policies as well as a social dimension. The EU 2020 Strategy sets out shared goals, and recommended mechanisms for 'smart, sustainable and inclusive growth' in the EU and its Member States. Among its most relevant headline targets, from a disability perspective, are those for employment, education and poverty reduction. Over the ten years of the EU 2020 Strategy, the number of references to disability in the Country Specific Recommendations issued by the Commission (as part of the European Semester process) to the Member States has risen, revealing a significant increase in disability mainstreaming, as noted above. ⁶²⁴

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⁶²¹ See Speech by Commissioner Dalli on the Impact of the Coronavirus Outbreak on Persons with Disabilities, available at: https://ec.europa.eu/commission/commissioners/2019-2024/dalli en.

⁶²² See generally Waddington, L. and Priestley, M., (eds.), Mainstreaming Disability Rights in the European Pillar of Social Rights – A Compendium, on behalf of ANED, February 2018, available at: https://www.humanconsultancy.com/projects/academic-network-of-european-disability-experts-aned.

⁶²³ See European Commission Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee of the Regions, Economic governance review, COM(2020) 55 final, Brussels, 5 February 2020, available at: https://ec.europa.eu/info/sites/info/files/economy-finance/com 2020 55 en.pdf.

⁶²⁴ See sub-section 3.3.1 above.

It is recommended that an explicit link is made between the new Disability Strategy and the EU's economic governance mechanism, including the European Semester. The Semester should be used to stimulate Member State policies and approaches, to support the employment and social protection of persons with disabilities. The Commission should provide for an annual review of disability mainstreaming in the European Semester process, as has been carried out by ANED for a number of years,625 and it should ensure that Commission staff who are involved in the European Semester process, including those drafting the Joint Employment Report and the Country Specific Recommendations, are sufficiently aware of the EU's obligations under the CRPD and the content of the new Disability Strategy. The Strategy should also support Member States in ensuring that the officials responsible for drafting the NRPs are familiar with the CRPD and the new European Disability Strategy. In the future, the European Semester may also be used to assess and coordinate the economic policies needed to achieve the SDGs. This would allow for the recommendation of the European Economic and Social Committee to set targets and actions to achieve all SDGs inside the EU, including for people with disabilities, to be acted upon. 626 In that regard, disability should be fully mainstreamed into the European Semester as it relates to the SDGs.

Using the Open Method of Coordination for realising the goals of the post-2020 European Disability Strategy: The OMC is a framework for coordination between the Member States, which aims to help them to reach common goals. The OMC can complement EU legislation, or operate in areas where the EU has limited legislative competence. The OMC supports the Member States in achieving common goals through guidelines, benchmarking and measuring progress, and periodic monitoring and reporting, revaluation and peer review, and is based on voluntary political cooperation. OMC is principally based on:

- i. Jointly identifying and defining objectives to be achieved (adopted by the Council);
- ii. Jointly established measuring instruments (statistics, indicators, guidelines);
- iii. Benchmarking, i.e. comparison of EU countries' performance and the exchange of best practices (monitored by the Commission).⁶³¹

Existing OMCs cover areas relevant to people with disabilities, such as employment, youth and social protection. Nevertheless, writing in 2012, Priestley revealed no evidence of a consistent approach or

⁶²⁵ See ANED, Mainstreaming Disability Equality in the European Semester 2019-20 and Retrospective Analysis, report prepared by Mark Priestley with contributions from the ANED network members and comparative data provided by Stefanos Grammenos from Eurostat sources, 17 June 2019, available at: https://www.disability-europe.net/theme/eu2020.

⁶²⁶ European Economic and Social Committee, Concluding Observations of the UN CRPD Committee to the European Union – A New Strategy for Persons with Disabilities in the European Union [2017] OJ C 34/15 (Rapporteur: Vardakastanis, own-initiative Opinion), 2 February 2017, para. 1.10, available at: https://www.eesc.europa.eu/our-work/opinions-information-reports/opinions/concluding-observations-un-crpd-committee-european-union-new-strategy-persons-disabilities-european-union.

⁶²⁷ Charitakis, S., Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2018, p. 185.

⁶²⁸ Charitakis, S., Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2018, p. 186.

⁶²⁹ Charitakis, S., Access Denied: The Role of the European Union in Ensuring Accessibility under the United Nations Convention on the Rights of Persons with Disabilities, Intersentia, Cambridge-Antwerp, 2018, p. 189.

⁶³⁰ Priestley, M., 'Disability Policies and the Open Method of Coordination', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 3, p. 9.

⁶³¹ See Glossary of Summaries, Open Method of Coordination, available at: https://eurlex.europa.eu/summary/glossary/open-method-coordination.html.

systematic methodology regarding disability mainstreaming.⁶³² The implementation of the CRPD, and supporting the implementation of the new EU Disability Strategy, could potentially be such a common goal, which could be supported through national disability action plans. The utility of the OMC in realising CRPD rights was confirmed in the European Parliament's 2017 Briefing, which states that 'in the absence of strong horizontal legislation, the EU's open methods of coordination can also be used to protect, promote and to monitor CRPD rights'.⁶³³

It is recommended that the Council mainstream disability-related issues when identifying and defining objectives under the current OMCs. It is recommended that Member States report on the action that they have taken with regard to the disability-related objectives, and what has been achieved. It is recommended that the Commission take account of disability when monitoring actions of the Member States. In addition to mainstreaming disability within existing OMCs, consideration should be given to establishing a disability-specific OMC with the goal of supporting Member States to implement the CRPD in their fields of competence, and operationalising national disability action plans or strategies which will complement the new European Disability Strategy.

Making use of the Structural and Investment Funds for achieving the objectives of the post-2020 European Disability Strategy: EU SIF funding has the potential to make a significant contribution to the achievement of the goals of the new Strategy. Under the current Strategy, action has been taken to ensure that the SIF supports implementation of the CRPD, by providing financial support for deinstitutionalisation and support services to enable persons with disabilities to live independently in the community. This is supported by the *ex ante* conditionalities linked to the Funds. Disability mainstreaming, meaning that persons with disabilities are facilitated to access and participate in projects, must be taken into account when deciding on which projects to fund and when monitoring projects. This is also the case for infrastructure projects and accessibility. The SIF also supports numerous other activities which are potentially relevant to persons with disabilities, including vocational training, employment support projects and infrastructure projects.

It is recommended that the new Strategy provide for close monitoring of the SIF by the Commission at EU level and by the relevant officials at Member State level. This was also recommended by the Parliament.⁶³⁴ The Strategy should provide for training of all relevant officials in the requirements of the CRPD and with regard to the importance of the ex ante conditionalities related to the SIF. This would be in line with general ex ante conditionality No. 3 on disability, which requires 'arrangements for training for staff of the authorities involved in the management and control of the SIF Funds in the fields of applicable Union and national

⁶³² Priestley, M., 'Disability Policies and the Open Method of Coordination', in Waddington, L., Quinn, G. and Flynn, E. (eds.), European Yearbook of Disability Law, Intersentia, Cambridge-Antwerp, 2013, Vol. 3, p. 19.

⁶³³ European Parliament, Briefing, The Protection Role of the Committee on Petitions in the Context of the Implementation of the UN Convention on the Rights of Persons with Disabilities (Author: Mark Priestley), PE 596.827, October 2018, p. 6, available at: https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/596827/IPOL_BRI(2017)596827_EN.pdf

⁶³⁴ European Parliament, Parliament Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), P8_TA(2017)0474, para. 18, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

disability law and policy, including accessibility and the practical application of the CRPD, as appropriate'. 635

It is also recommended that close monitoring takes place of the Coronavirus Response Investment Initiative⁶³⁶ and the Coronavirus Response Investment Initiative Plus⁶³⁷ packages of measures. These provide EU Member States with more flexibility to use EU SIF to counter the effects of the pandemic. Monitoring of these measures should be focused specifically on whether the SIF are being properly targeted towards achieving the overall goals of the new Strategy and are distributed in a CRPD-compliant way.

Taking disability considerations into account in Horizon Europe: The EU is currently drawing up plans for Horizon Europe, which will replace Horizon 2020, the EU's research and development programme. Horizon Europe's cross-cutting goal of widening participation, as well as the cluster 'Culture, Creativity and Inclusive Society', are potentially relevant for people with disabilities, as are indeed some of the other actions which will fall under the three proposed pillars ('Excellent Science', 'Global Challenges' and 'European Industrial Competitiveness, and Innovative Europe'). It will be important to develop research programmes addressing equality and human rights-related issues concerning people with disabilities when drawing up Horizon Europe, as well as to fund research which takes into account the needs and situation of persons with disabilities. Horizon 2020 already addresses gender as a cross-cutting issue, and it is mainstreamed in each of the different parts of the Work Programme, ensuring a more integrated approach to research and innovation. Horizon Europe offers the possibility to treat disability in the same way. This would, amongst others, require project proposals to indicate how the project will incorporate a disability-related perspective, and for this to be taken into account in the evaluation.

It is recommended that the EU institutions involved in the drafting and adoption of the multiannual Horizon Europe programme (the Commission, Council and Parliament) ensure that Horizon Europe mainstreams disability issues, and the Commission, when drawing up individual work programmes and calls, ensure that disability equality is addressed as a crosscutting issue and is taken into account in assessing the quality of research proposals.

Ensuring that disability considerations are taken into account in the European Commission's annual Rule of Law Report: In October 2016, the European Parliament addressed recommendations to the European Commission regarding the establishment of an EU mechanism on democracy, the rule

⁶³⁵ See: Annex IX of Regulation (EU) 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.

See: https://ec.europa.eu/regional-policy/en/information/publications/factsheets/2020/coronavirus-response-investment-initiative.

⁶³⁷ See: https://ec.europa.eu/regional-policy/en/newsroom/news/2020/04/04-02-2020-coronavirus-response-investment-initiative-plus-new-actions-to-mobilise-essential-investments-and-resources.

⁶³⁸ For more information, see: https://ec.europa.eu/info/node/71880.

⁶³⁹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 35, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

See: https://ec.europa.eu/programmes/horizon2020/en/h2020-section/promoting-gender-equality-research-and-innovation.

of law and fundamental rights (EU Pact for DRF) in the form of an inter-institutional agreement, building on the Rule of Law Framework and Annual Dialogues on the Rule of Law established by the Council and Commission in 2014.⁶⁴¹ On 14 November 2018, the Parliament adopted a Resolution,⁶⁴² calling again on the Commission to propose an inter-institutional agreement and 'linking its proposed regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States with a comprehensive, permanent and objective EU mechanism for the protection of democracy, the rule of law and fundamental rights'.⁶⁴³ On 17 July 2019, the Commission proposed a Rule of Law Review Cycle.⁶⁴⁴ The first annual Rule of Law Report is one of the 'major initiatives of the Commission's Work Programme for 2020', and will monitor significant developments in relation to the rule of law in EU Member States.⁶⁴⁵ As Craig et. al assert, under the rule of law, all public powers should act 'in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts'.⁶⁴⁶ Fundamental rights, including disability rights, are therefore an important part of the Rule of Law Report.

It is recommended that the Commission's annual Rule of Law Reports report on disability rights, and relevant connections be made in the annual Rule of Law Report with the post-2020 European Disability Strategy on issues such as access to justice and political participation.

Ensuring that disability considerations are taken into account in implementation of the European Green Deal: The Commission has recently published a Communication on the European Green Deal.⁶⁴⁷ The Green Deal is intended to work towards making Europe climate-neutral and ensuring that no one is left behind in this process. It addresses decarbonising the energy sector, renovating buildings to help cut energy use, supporting industry to innovate, and ensuring cleaner, cheaper and healthier forms of public and private transport. Some of these actions are of relevance for people with disabilities, as is the general goal of 'leaving no one behind'. Moreover, people with disabilities can be affected in particular ways by climate change and by the various measures taken to address climate change.⁶⁴⁸ Nevertheless, the Commission's Communication on the Green Deal does not mention people with disabilities.

It is recommended that the Commission reflect on the disability dimension to the European Green Deal and implement it in a disability-sensitive way. Account should be taken, in particular,

⁶⁴¹ See: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-report en.

⁶⁴² European Parliament, Resolution of 14 November 2018 on the need for a comprehensive democracy, rule of law and fundamental rights mechanism, Strasbourg, 14 November 2018, P8 TA(2018)0456, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2018-0456_EN.html.

European Parliament, Resolution of 14 November 2018 on the need for a comprehensive democracy, rule of law and fundamental rights mechanism, Strasbourg, 14 November 2018, P8 TA(2018)0456, para.5.

See: https://www.europarl.europa.eu/legislative-train/theme-civil-liberties-justice-and-home-affairs-libe/file-eumechanism-on-democracy-the-rule-of-law-and-fundamental-rights

⁶⁴⁵ See: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-report_en.
646 Craig, P., Stanilas, A., Diaz Abad, N. and Salazar, L., Rule of Law in Europe: Perspectives from Practitioners and Academics, European Judicial Training Network, available at: http://www.ejtn.eu/PageFiles/19048/2019-056-RoL%20Manual-170x240-WEB_FINAL.pdf

⁶⁴⁷ European Commission, Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal, COM(2019) 640 final, Brussels, 11 December 2019, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52019DC0640&from=EN.

⁶⁴⁸ See, for instance: EDF, 'An Inclusive Green Deal for Europe', Brussels, March 2020, pp. 3-4, available at: http://www.edf-feph.org/eu-green-deal.

of accessibility issues that may arise during the renovation or construction of buildings to make them more energy-efficient, the affordability of energy sources for people with disabilities, as well as access to transport. Through their representative organisations, people with disabilities should be meaningfully involved in the various mechanisms set up to implement the Green Deal.



- •Ensure that the objectives of the Strategy are mainstreamed in the work of the EU
- administration

The objectives of the Strategy should be mainstreamed in the work of the EU administration, in line with the recommendations of the EU CRPD Monitoring Framework.⁶⁴⁹

It is recommended that, the Commission include in the implementation plan for the new Strategy specific actions that target the public administration, requiring that all EU institutions and agencies take CRPD-compliant actions in respect of the EU's work as a public administration. This would entail ensuring that the policies of the EU institutions and agencies are fully inclusive of people with disabilities, particularly policies on employment, and that all websites of the EU institutions and agencies are accessible, in accordance with relevant international and EU standards.



- $\bullet \hbox{The Better Regulation Guidelines, impact assessments and evaluations should take} \\$
- account of disability

The Commission carries out impact assessments on proposed initiatives which are expected to have significant economic, social or environmental impacts, and it periodically evaluates instruments which have been adopted. The Better Regulation Guidelines⁶⁵⁰ set out the principles that the Commission follows when preparing new initiatives and proposals, and when managing and evaluating existing legislation. Where proposed measures may have an impact on the situation of people with disabilities, and where existing instruments are having such an impact, it is important to take the disability dimension into account in impact assessments and evaluations. This does not always happen at present. For example, the 2017 evaluation⁶⁵¹ of the Directive on Consumer Rights,⁶⁵² which was adopted after the entry into force of the CRPD, did not mention consumers with disabilities.

⁶⁴⁹ European Disability Strategy Post-2020: Contribution from the EU CRPD Monitoring Framework, Brussels, 16 February 2020, p. 11, available at: https://fra.europa.eu/sites/default/files/fra_uploads/contribution-eu-framework-post-2020-disability-strategy_en.pdf.

⁶⁵⁰ See: https://ec.europa.eu/info/files/better-regulation-guidelines_en.

⁶⁵¹ See: http://ec.europa.eu/newsroom/just/item-detail.cfm?item_id=59332

⁶⁵² Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights amending Council 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 95/577/EEC and Directive 97/7/EC of the European Parliament and of the Council.

It is recommended that the Commission amend the Better Regulation Guidelines to ensure that they provide appropriate guidance on how to assess the expected impact of proposed measures on persons with disabilities and evaluate the impact of existing measures on persons with disabilities. This new guidance should be acted upon when carrying out impact assessments or evaluations of existing legislation.

5.2.2 Embedding the New Strategy within Member State Infrastructure

Since the new Disability Strategy should be a strategy for implementing the CRPD throughout the EU, it should also be embedded within Member State infrastructure, and Member States and relevant actors at the national level have a role to play in ensuring that the objectives of the post-2020 European Disability Strategy are met. In that regard, relevant recommendations are outlined below.



- •Ensure complementarity of the post-2020 European Disability Strategy with Member States'
- disability strategies

Many Member States have in place national strategies for implementing the CRPD, and these are periodically reviewed and updated.

With regard to national strategies, it is worth bearing in mind that other EU Strategies, and specifically the EU Framework for National Roma integration strategies, call on Member States to adopt strategies for Roma integration. That Framework focuses primarily on the adoption of national strategies which address four areas (access to education, employment, healthcare and housing). Under that Framework, Member States are also to produce annual reports detailing progress. In contrast, the European Disability Strategy has a much broader scope, with significant implications for both EU institutions and Member States, that extend beyond the adoption of national strategies.

Given that the EU and its Member States share responsibility for implementing the Convention and, in combination, are jointly responsible for implementing the Convention in full, it is recommended that the Member States pay attention to the complementarity of their national strategies with the post-2020 European Disability Strategy. Likewise, it is recommended that the Commission ensure that the EU Strategy supports the implementation of national strategies. The EU Strategy can also facilitate and support the adoption of national strategies, where these are not already in place. Existing structures, such as the DHLG, the European Semester process, and the OMC, may have a role to play in this respect. In brief, the EU Disability Strategy should support the development, coordination, dissemination and monitoring of national disability strategies.

⁶⁵³ Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, An EU Framework for National Roma Integration Strategies up to 2020, COM(2011) 173 final.

Given that the NRPs are an integral element of the European Semester process which feed into the Commission's Country Specific Recommendations, it is recommended that the Member States ensure that the employment of people with disabilities is addressed in the NRPs. In addition, when submitting their NRPs to the Commission, the Member States should indicate which structural reforms and policy actions are being taken to achieve the objectives of Europe 2020 and the new Strategy in the fields of employment, education and social inclusion, and the extent to which input was received from relevant stakeholders, including people with disabilities themselves.

It is also recommended that the Commission monitor the experience with national disability strategies and the existing European coordination mechanisms mentioned above. If the approach recommended above, which encourages and supports Member States in the adoption and implementation of national disability strategies seems inadequate, it is recommended that the Commission reflect on whether an approach similar to that found in the EU Framework for National Roma Integration Strategies be adopted. Such an approach would place greater requirements on Member States in terms of adopting national disability strategies and reporting on achievements.



• Facilitate cooperation between relevant actors at the national level

As acknowledged by several EU institutions⁶⁵⁴ and stakeholders,⁶⁵⁵ there is a need for participation of civil society actors from EU Member States in implementing the objectives of the new European Disability Strategy, and ultimately those of the CRPD. Civil society organisations and Member State authorities cooperate with each other in various ways in different countries, and a more coherent approach entailing mutual learning would serve to facilitate implementation of the new Strategy across the EU.

In order to enhance cooperation between all relevant actors at the national level throughout the Member States, it is recommended that the Commission facilitate, in the context of the DHLG, the exchange of best practices and knowledge regarding new and existing models of cooperation between DPOs, CSOs and relevant officials at national level. It is recommended that Member States cooperate in this process of exchange of knowledge and best practices.

⁶⁵⁴ See, for instance: European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 119, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁶⁵⁵ See, for instance: loannis Vardakastanis, President of EDF, presentation at the event 'Shaping the EU Agenda for Disability Rights 2020-2030', Brussels, 26 February 2020.

5.3 Implementing and Monitoring the Strategy

The implementation and monitoring mechanisms established for the new Strategy will significantly impact on its effectiveness. Indeed, EDF has stated that 'even more central to the Disability Rights Agenda [new Disability Strategy] than the proposed actions, should be the measures and structures foreseen to implement and monitor it'.656

5.3.1 Implementing the New Disability Strategy

The EU has a wide range of tools at its disposal which can be used to implement the new Strategy. Some of those have already been explored above in sub-section 5.1.2 ('Designing a Strategy to Implement the CRPD – Doing the Groundwork' – and, especially, the recommendation made to identify a first list of actions (implementation plan), which is periodically updated), and in sections 5.1.3 (Embedding the New Strategy within the Infrastructure of the EU).

Further implementation measures are discussed below.



•Establish a specific budget linked to the new European Disability Strategy

Both the European Parliament⁶⁵⁷ and several DPOs, including EDF,⁶⁵⁸ have acknowledged the need to establish a specific budget line linked directly to the new European Disability Strategy. This budget line should be foreseen in the next MFF. Such a budget 'should be decentralised and shared between all the disability focal points, to ensure their shared ownership in ensuring the Agenda [Strategy] achieves what it sets out to do'.⁶⁵⁹ EU funding programmes administered by the Commission, such as Horizon Europe, should also have a ring-fenced budget line to be used to fund disability-related projects and accessibility, and a specific budget line should be guaranteed by the Commission for the EU CRPD Monitoring Framework, to ensure that it is in a position to carry out its tasks under Article 33(2) CRPD.

It is recommended that the Council, as the body which plays the central role in the adoption of the MFF, ensure sufficient funding is allocated to implement the new European Disability Strategy. The budget should be allocated amongst the DFPs, with each institution and focal point responsible for its proper use. The Commission, in particular, will be responsible for the

⁶⁵⁶ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, p. 4, available at: http://www.edf-feph.org/sites/default/files/edf_disability_rights_agenda_position_0.doc

⁶⁵⁷ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 119, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁶⁵⁸ See: http://www.edf-feph.org/newsroom/news/edf-responds-review-european-disability-strategy-2010-2020.

⁶⁵⁹ EDF, The European Disability Strategy Rights Agenda 2020-2030, Following on from the Disability Strategy 2010-2020, p. 4, available at: http://www.edf-feph.org/sites/default/files/edf disability rights agenda position 0.doc

bulk of the budget. Individual funding programmes administered by the Commission should have a ring-fenced budget to support disability accessibility.



- •Identify and periodically update a list of actions (implementation plan), including identiying which
- •institution or body is responsible for taking the listed action

As noted above in sub-section 5.1.2, it is important to publish an initial list of planned actions linked to the new Strategy when it is adopted. This should be subject to periodic review, and a second list of actions, covering the second period of the Strategy (2026-2030), should be published following a midterm review. The lists should consist of clear, measurable actions which are linked to a specific timeframe, and will be important both in implementing and monitoring the Strategy. The second list of actions should take full account of the second Concluding Observations issued to the EU by the UN Committee on the Rights of Persons with Disabilities, which should be adopted in the early years of the new Strategy.

In light of the above, it is recommended that the Commission publish a second list of actions (implementation plan) for the European Disability Strategy post-2020 before 2026. This should build on the mid-term review of the Strategy⁶⁶⁰ and the second Concluding Observations issued to the EU by the UN Committee on the Rights of Persons with Disabilities. Both the initial and second list of action should identify which organisation or body is responsible for taking the listed action.

5.3.2 Monitoring the New Disability Strategy

It is important to build into the post-2020 European Disability Strategy appropriate monitoring tools from the onset. Monitoring can help to reveal the impact the Strategy is having, and identify where changes in approaches are needed.



•Conduct a mid-term evaluation

The European Disability Strategy 2010-2020 provided for a mid-term evaluation. However, this was carried out somewhat later than originally envisaged, with the related Progress Report only being published in 2017, and the mid-term evaluation did not lead to the adoption of a new list of actions covering the second period of the 2010-2020 Strategy. It is important that the mid-term evaluation of the new Disability Strategy is carried out in a timely manner, and that it leads to a re-evaluation of

⁶⁶⁰ See sub-section 5.3.2 below.

priorities and actions where needed. This is particularly important as the second set of Concluding Observations issued to the EU by the UN Committee on the Rights of Persons with Disabilities will not be available at the time the new Strategy is adopted, but can be taken into account in the mid-term evaluation.

It is recommended that the Commission ensure that the mid-term evaluation of the new Disability Strategy is carried out in a timely manner and that it leads to a re-evaluation of priorities and actions where the evaluation indicates that this is needed.



- Ensure individual evaluations of instruments adopted as part of the new Disability
- •Strategy and Member State compliance

The Commission periodically evaluates instruments which have been adopted, including legal instruments which mainstream disability or which could otherwise be expected to have an impact on people with disabilities. It also monitors compliance by Member States. The 2017 Resolution of the European Parliament on the Implementation of the European Disability Strategy called for full implementation and monitoring of all accessibility-related legislation, and enhanced assessment compliance with certain EU legislation. The June 2020 Resolution of the European Parliament on the European Disability Strategy post-2020 called for accessibility legislation to be monitored by a European Access Board, established by the European Commission for that purpose.

It is recommended that the Commission ensure that evaluations of instruments which are linked to the post-2020 European Disability Strategy, including legislative instruments which mainstream disability, fully address the impact of the instrument on people with disabilities. Given the importance of accessibility, the Commission should pay particular attention to assessing compliance by Member States with EU legislation in this field. These recommendations are linked to the recommendation on the Better Regulation Guidelines made above.⁶⁶³



- Establish a baseline data set, establish indicators, and support the ongoing collection and
- •compliation of data on the situation of people with disabilities

A recommendation has already been made above regarding indicators and data collection (see subsection 5.1.2). That recommendation was made in the context of doing preparatory work to prepare a

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⁶⁶¹ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, paras. 4 and 6, available at: https://www.europarl.europa.eu/doceo/document/TA-8-2017-0474 EN.html.

⁶⁶² European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 8, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

⁶⁶³ See sub-section 5.2.1 above.

new Strategy; however data collection is also essential for monitoring the new Strategy. The collation and presentation of data on the situation of people with disabilities can provide a baseline against which to assess changes and progress over the course of the new Strategy, and is essential for effective monitoring. In its 2017 Resolution, the European Parliament noted the need 'for measurable and comparable quantitative and qualitative indicators [...] in order to assess the implementation of the UNCRPD by the EU and the Member States'.⁶⁶⁴ The Parliament also called on the EU to develop 'a human rights-based indicator system [...] as well as a comparable comprehensive data collection system',⁶⁶⁵ and stressed the need 'for continuous monitoring of the implementation of the UNCRPD in line with Article 33 thereof and in consultation with disability organisations'.⁶⁶⁶ The European Parliament stressed this need in its June 2020 Resolution, calling for 'the collection (with legally established safeguards) of robust disaggregated data, broken down by type of disability, age, gender and factors that are relevant to the monitoring of progress in the implementation of the CRPD'.⁶⁶⁷

The UN Committee on the Rights of Persons with Disabilities has also recommended that the EU develop a 'human rights-based indicators system in cooperation with persons with disabilities and their representative organizations, as well as a comparable and comprehensive data collection system, with data disaggregated by gender, age, rural or urban population and impairment type'. 668

It is recommended that the Commission develop a clear baseline data set, which can be used to both identify priority areas of action, and monitor developments.



• Establish a specific budget line to enable participation and involvement of DPOs and CPOs in • monitoring the implementation of the post-2020 European Disability Strategy

Participation and active involvement of DPOs and CSOs is not only essential with regard to the design of the post-2020 European Disability Strategy but also in relation to monitoring its implementation.

In this light, it is recommended that the new Strategy include a specific budget line that is designed to ensure the participation of DPOs and CSOs in monitoring the implementation of the new Strategy. Such a budget line could be used, for instance, to ensure the effective participation of DPOs in monitoring committees related to the SIF.

 $^{^{664}}$ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 143.

⁶⁶⁵ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 144.

⁶⁶⁶ European Parliament, Resolution of 30 November 2017 on implementation of the European Disability Strategy (2017/2127(INI)), Brussels, 30 November 2017, P8_TA(2017)0474, para. 147.

⁶⁶⁷ European Parliament, Resolution of 18 June 2020 on the European Disability Strategy post 2020 (2019/2975(RSP), Brussels, 18 June 2020, P9_TA-PROV (2020) 0156, para. 19, available at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0156 EN.pdf.

 $^{^{668}}$ CRPD Committee, Concluding Observations on the Initial Report of the European Union, 02 October 2015, CRPD/C/EU/CO/1, para. 73.

ANNEX 1:CHRONOLOGY

1983-1988

- <u>First Community Action Programme</u> on the Social Integration of Handicapped People (1983-1988) [1981] OJ C 347/1

1988

- EP Resolution of 17 June 1988 on sign languages for deaf people
- EP Resolution of 18 November 1998 on sign languages

1988-1991

- <u>HELIOS I Community Action Programme for Disabled People</u> (1988-1991) [1988] OJ L 104/38; 1993
- <u>UN Standard Rules</u> on the Equalization of Opportunities for Persons with Disabilities, 20 December 1993, A/RES/48/96, available at:

1993-1996

- <u>Council Decision 93/136/EEC</u> of 25 February 1993 on HELIOS II Community Action Programme to assist Disabled People (1993-1996) [1993] OJ L 56/30.

1996

- European Commission, Communication of the Commission on Equality of Opportunity for People with Disabilities: A <u>New European Community Disability Strategy</u>, COM(96) 406 final, Brussels, 30 July 1996,

1997

- Foundation of the **European Disability Forum**

1998

- EP Resolution on sign languages

1999

- Entry into force of the Treaty of Amsterdam, conferring competence on disability discrimination (former Article 13 TEC, now 19 TFEU)

2000

- <u>Council Directive 2000/78/EC</u> of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

2001

- <u>Directive 2001/85/EC</u> 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 (EU Buses and Coaches Directive, making mandatory that all new urban buses ensure accessibility for persons with disabilities)

2003

- First European Year of Persons with Disabilities
- First Equal opportunities for people with disabilities: a European action plan for the years 2004-2010

2006

- <u>Regulation (EC) No 1107/2006</u> 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 EEA relevance)
- Adoption of the <u>UN Convention on the Rights of Persons with Disabilities</u>, 13 December 2006, in force 03 May 2008, UN Doc. A/RES/61/106, Annex I.

2007

- EU signs the UN Convention on the Rights of Persons with Disabilities
- Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations

2008

- <u>Commission proposal for a Council Directive on implementing the principle of equal treatment</u> between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426)

2009

- <u>European Parliament resolution of 6 May 2009</u> on the active inclusion of people excluded from the labour market
- <u>Council Decision 2010/48/EC</u> of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities [2010] OJ L 23/35

2010

- European Commission, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, <u>European Disability Strategy 2010-2020</u>: A Renewed Commitment to a Barrier-Free Europe, COM(2010) 636 final (European Disability Strategy 2010-2020), Brussels, 15 November 2010
- <u>Code of Conduct</u> between the Council, the Member States and the Commission setting out internal arrangements for the implementation by and representation of the European Union relating to the United Nations Convention on the Rights of Persons with Disabilities
- Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 Text with EEA relevance

2011

- Entry into force on 21 January 2011 of the UN Convention on the Rights of Persons with Disabilities (CRPD), in accordance with <u>Council Decision 2010/48/EC</u> of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities
- Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 Text with EEA relevance
- European Economic and Social Committee, <u>Opinion</u> on the Communication from the Commission on the European Disability Strategy 2010 -2020: A Renewed Commitment to a Barrier-Free Europe, 21 September 2011
- <u>EP Resolution of 25 October 2011</u> on mobility and inclusion of persons with disabilities and the European Disability Strategy 2010-2020

2012

- <u>Directive 2012/29/EU</u> of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

2013

- Regulation (EU) No 1288/2013 of the European Parliament and of the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC, OJ L 347/50 of 20.12.2013 (providing students with disabilities with additional financial support to cover disability-related expenses when studying or following a training in another EU country)
- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006

2015

- <u>EP Resolution of 20 May 2015</u> on the List of Issues adopted by the United Nations Committee on the Rights of Persons with Disabilities in relation to the initial report of the European Union
- UN Committee on the Rights of Persons with Disabilities, <u>Concluding Observations</u> on the Initial Report of the European Union, 2 October 2015, CRPD/C/EU/CO/1

2016

- <u>EP Resolution of 7 July 2016</u> on the implementation of the UN Convention on the Rights of Persons with Disabilities, with special regard to the Concluding Observations of the CRPD Committee
- <u>EP Resolution of 15 September 2016</u> on application of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation ('Employment Equality Directive')
- <u>Directive 2016/2102</u> of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies
- EP Resolution of 23 November 2016 on sign languages and professional sign language interpreters

2017

- European Commission, Commission Staff Working Document, <u>Progress Report</u> on the Implementation of the European Disability Strategy (2010-2020), Brussels, 2 February 2017, SWD(2017) 29 final
- EP Resolution of 30 November 2017 on the implementation of the European Disability Strategy

2018

- <u>Council Decision (EU) 2018/254</u> of 15 February 2018 on the conclusion on behalf of the European Union of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print Disabled

2019

- <u>Directive (EU) 2019/882</u> of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (European Accessibility Act (EAA)

2020

- European Parliament Resolution of 18 June 2020 on the European Disability Strategy post-2020
- <u>European Parliament Resolution of 8 July 2020</u> on the rights of persons with intellectual disabilities in the COVID-19 crisis

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the PETI Committee, analyses the European Disability Strategy 2010-2020 and makes recommendations regarding the new European Disability Strategy. The study reflects on the design and implementation of the current Strategy, as well as its achievements and shortcomings. The study makes recommendations in respect of the post-2020 European Disability Strategy. Those recommendations are addressed to the European Parliament, the European Commission and other EU institutions, Member States and key stakeholders, and relate to the groundwork needed to prepare the new Strategy, and the design, content and mechanisms for implementation and enforcement.

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