

European Disability Forum



EDF contribution to the Day of General Discussion

*UN Committee on the Rights of Persons with Disabilities
Geneva, 7 October 2010*

“In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.”

Article 4 § 3 of the United Nations Convention on the Rights of Persons with Disabilities

ARTICLE 9 UNCRPD - ACCESSIBILITY

Accessibility is the material basis for persons with disabilities to exercise and benefit from their human rights protected by the United-Nations Convention on the Rights of Persons with Disabilities (UNCRPD): without access to print and visual media and the web, a person cannot exercise one's freedom of expression and opinion; or, without access to local public transportation and the built environment, a person cannot exercise his or her right to live independently and work.

Despite the established link between accessibility and non-discrimination, the former is still to be implemented in a satisfactory manner. Indeed, the national legislative measures in some fields such as employment, transport, information and communication technologies (ICTs), built environment have shown to have a limited impact on workers, consumers, and passengers with disabilities. First of all these measures are still limited in a majority of countries, secondly they do cover only certain modes of transport or certain products or services in the area of information technologies. In the area of built environment, legislation is often weakened by the lack of concrete sanctions, or by the lack of practical knowledge of some of the provisions. While there are a number of good practices developed through public programmes or by industry, this is known by a handful number of practitioners, and has not become a practice beyond the duration of the project. The progress is slow, the barriers are still there and discrimination is an everyday experience despite the optimistic statements. The fight against discrimination appears to be fragmented and sectoral, even in areas such as ICT where there is a globalised market. A new global approach is urgently required, respecting the principles of universal design.

International and European standards and accessibility labels can provide an answer to some of those challenges. Conformity to such standards should be proven by third-party certification and independent review. Moreover, information on the accessibility of the products and services should be available on mainstream brochures and websites, and

not only through publications specifically targeting persons with disabilities, as is too often the case.

EDF would like to propose some recommendations to be promoted by the UN Committee on the Rights of Persons with Disabilities in their work across the thematic areas of their work on the implementation of the Convention.

ACCESS TO TRANSPORT

Three measures indispensable for the fulfilment of the obligations under Article 9 can be highlighted:

1. Adoption and effective enforcement of legislation

EDF notes that passengers are still discriminated all too often at European airports and by European airlines, at railway stations, etc, despite the existence of strong legislative provisions adopted at European Union level and directly binding on industry¹. Information is often not available in accessible formats, personnel is not always trained on disability-awareness or on how to handle mobility equipment and assistive devices. The accessibility of the buses and passenger vessels still leave a lot to desire and technical accessibility devices are not always functioning.

2. Establishment of a long-term strategy in order to ensure that all passengers can use all modes of transport on an equal footing

People with disabilities have to be considered as an active part of the European population that have the right to contribute and be part of society as all other citizens. Special solutions for people with disabilities should be an exception as these services are exclusive for the people concerned, but also costly for society. If we are to reach full

¹ Regulation 1107/2006 on the rights of persons with disabilities and persons with reduced mobility when travelling by air, regulation 1371/2007 on the rights of rail passengers, and a recently adopted regulation on maritime and inland waterway passenger rights (not yet in application). A regulation on the rights of bus passengers is currently being negotiated between the European Parliament and the Council of Ministers of the EU.

access, it is essential that no public funding should be used to support infrastructural projects unless these projects ensure design for all.

For instance it is critical that public procurement legislation includes accessibility and universal design criteria as well as guidelines on the development of technical specifications. National or EU funding programmes (for instance the EU structural funds² should also include mandatory accessibility measures. Accessibility requirements should be part of International cooperation funding and emergency relief funded by EU and national agencies.

Furthermore more efforts should be developed to train present and future architects, designers and engineers in accessibility and universal design. In particular EDF notes the lack of an international reference programme in this field.

Finally, a percentage of research programmes should be dedicated to accessibility and universal design with the involvement of users with disabilities.

3. Standardisation to ensure an integrated transport sector providing seamless travel for passengers with disabilities

Those standards must be fully interoperable with all modes of transport to be of any real value and in order to create barrier-free transport. All involved parties (operators, politicians, NGOs, airport/railway station/port managers, designers...) must work together to have a global view of the whole transport network and to contribute with all the necessary pieces to ensure an inclusive and accessible transport sector. Safety and security measures should be integrated in all relevant standards as they are absolutely essential but all too often not sufficiently guaranteed for persons with disabilities. Formal standards would be the tool for tackling this.

Standards is a tool for ensuring compliance with existing legislation and would in that sense be a support for as well the transport industry (they would know what to provide

² Structural funds regulations 2007-2013

http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm

and how to ensure quality transport for all) as for the passenger who would know what to expect when travelling. User participation in the drafting of these standards is essential in order to ensure the best possible outcome of those.

EDF RECOMMENDATION 1: EDF invites that the Committee evaluate the implementation of Article 9 in relation to transport against these measures.

BUILT ENVIRONMENT

Although many European countries have had legislation on accessible built environment in place for many years, the built environment in Europe is far from being accessible, and new barriers are still being mounted.

Strong dissuasive measures are needed in order to prevent the building of new inaccessible buildings and infrastructures that cost a lot of money and time in accessibility investments at a later stage. Differently from some other rights in the Convention, the economic factor cannot be accepted as the reason for non-respect of the accessibility principle of the new and refurbished facilities.

Concerning existing public buildings, clear deadlines must be set for making those accessible, coupled with the relevant budget. No public funding should be provided unless accessibility is integrated in the renovation projects.

Legislation should be underpinned by formal standardisation, and EDF is pleased that the ISO/DIS 21542 Accessibility and Usability of the Built Environment is in its final drafting stage. EDF underlines that this standard should only be considered as a minimum norm for accessibility. All countries should be encouraged to be more ambitious when establishing their national recommendations.

EDF RECOMMENDATION 2: EDF invites the Committee to treat non-respect of the national legislation on accessibility of built environment as a clear-cut violation of Article 9 of the Convention.

ACCESS TO INFORMATION AND COMMUNICATION TECHNOLOGIES (ICTs)

ICTs are vital to making possible the professional and cultural inclusion of persons with disabilities. At the same time, when they are not accessible, ICTs can create new obstacles and can lead to new forms of discrimination.

As the ICT market is global, providing solutions at an international or regional level is more effective for both industry and consumers and would avoid market fragmentation. In this respect, in May 2010, the European Commission released the Digital Agenda for Europe, which is the overall policy framework for the Information Society at EU level.

This new European policy framework is a good first example of how the challenge of e-accessibility can be tackled at EU level. The new European approach is a mix of measures that aim at addressing e-accessibility in the widest sense:

1. The Digital Agenda contains horizontal measures that address e- or web-accessibility as a whole (e.g. proposal to ensure accessibility of public websites and websites of basic services by citizens with disabilities);
2. They are complemented by sector-specific measures whenever the e-accessibility angle needs to be highlighted (e.g. accessibility of European and the European digitalised cultural heritage; e-health for persons with disabilities).
3. Finally, the UNCRPD is seen as the framework against which accessibility should be evaluated. And, the participation of all relevant parties, including organisations of persons with disabilities is clearly spelled out, in accordance with the obligations in Article 4.3 of the Convention.

Nevertheless, EDF is worried about the lack of binding legislative measures to push forward the e-accessibility agenda. The experience has shown that the measures that are taken on the voluntary basis are much less effective than binding regulations. Furthermore, the European approach lacks the comprehensive mainstreaming of the e-accessibility requirements in some areas, such as research and innovation.

Finally, access to emergency services and early warning systems varies from one country to another in Europe. Accessibility of both 112, the single European emergency

number, and national emergency numbers does not exist in all European countries. And, when accessibility of emergency services exists, persons with disabilities must often dial different numbers than 112 and mainstream national ones. This is why EDF would like to stress the importance of developing accessible emergency services and early warning system for persons with disabilities.

EDF RECOMMENDATION 3: EDF invites the Committee to evaluate the implementation of Article 9 CPRD regarding ICTs using the European approach that complements horizontal measures with sector-specific ones. Only a complete set of measures, mandatory as well as voluntary, that is accompanied with a strong enforcement action can be considered adequate implementation.

STANDARDISATION

In order to achieve accessibility for everyone, standardisation should underpin mandatory measures. The acceptance and use of common standards, if well designed, should ensure a better access to and a correct use of products, environment, programmes and services for all users with or without disabilities.

Article 2 UNCRPD defines “universal design” placing it firmly in the heart of the accessibility discourse. It must be understood that without respect for this principle, the implementation of the rights enshrined in the Convention, such as non-discrimination, living in the community or participation in cultural life cannot be considered adequate. Insisting on universal design refutes the arguments about the economic cost of accessibility and the progressive nature of the obligation.

It is crucial to ensure the effective user participation in standardisation committees and throughout all the stages of the definition, drafting and implementation of international, European and national standards. The specific expertise of people with disabilities must be exploited.

EDF RECOMMENDATION 4: EDF invites the Committee to reflect on the transversal importance of universal design for the fulfillment of the Convention rights and take a strong stand favouring it over disability-specific solutions that should be used as an exception rather than a standard rule.

The European Disability Forum (EDF) is the European umbrella organisation representing the interests of 65 million persons with disabilities in Europe. The mission of EDF is to ensure disabled people full access to fundamental and human rights through their active involvement in policy development and implementation in Europe. EDF is a member of the Social Platform and works closely to the European institutions, the Council of Europe and the United Nations.