

Opinion of the European Economic and Social Committee on the 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

(2006/C 185/10)

On 28 November 2005 the European Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 20 March 2006. The rapporteur was Ms Greif.

At its 426th plenary session, held on 20 and 21 April 2006 (meeting of 20 April 2006), the European Economic and Social Committee adopted the following opinion by 55 votes in favour with 1 abstention.

1. Conclusion and recommendations

1.1 The EESC supports the actions proposed by the European Commission in the DAP 2006-2007.

1.2 The EESC considers that the monitoring of the Equal Treatment directive in Employment and Occupation should continue to be a priority in the period covered by the DAP.

1.3 The EESC calls on the Commission to propose a Disability Specific Directive following the process of the feasibility study on developing non-discrimination legislation at European level.

1.4 A visible lack of concrete actions in the *European Employment Strategy* is a major sign of insufficient commitment by the EU. The EES was one of the major landmarks to test the commitment of the EU and Member States towards DAP. All of them have failed this test. The revised objectives of the *European Employment Strategy* should reinforce the mainstreaming of disability in the Employment Guidelines and the National Reform Programmes.

1.5 The EU must commit itself to the principle of mainstreaming in initiatives such as:

- The *Structural Funds*, ensuring that the current regulation, the strategic guidelines and the operational programmes take on board the principles of non-discrimination and accessibility for people with disabilities.
- The 7th Framework Programme, ensuring that there are projects of research in areas such as design for all, ICT systems, transition to independent living, etc.
- Transport promoting the inclusion of more accessible rail transport, international coaches and maritime transport.

1.6 The EESC regrets that there is a lack of interest in the efforts made by EU Member States in mainstreaming disability in national policy making. The strength of DAP relies on the interest of the national states to assume the principles of the Action Plan.

1.7 The EESC also encourages the European Institutions to take on board and assume the objectives of the DAP at European level. The efforts in internal communication and raising awareness should result in a better visibility of disability in European policy making.

1.8 Organizations at European level such as the *European Disability Forum* and other representative NGOs should continue their work being supported under the framework of the new Progress programme.

1.9 For the *future agenda*, the EESC urges the Commission to pay attention to the following specific issues:

- the key importance of the concept of **independent living** and the right of disabled people not to be segregated in institutions or excluded from society; access to information, mobility, housing, the built environment and above all personal assistance are crucial elements for independent living of disabled people. In this respect the modernizing of social protection system is one of the priorities ⁽¹⁾;
- the key importance of **active political participation** of people with disabilities in society; disabled persons should have equal opportunities to achieve their right to active participation in decision making processes, policy development, monitoring and evaluation, etc. through their representative NGOs and networks. The role of relevant NGOs should be strengthened at both national and EU level, whereby also smaller and weaker NGOs should get their place among other bigger associations;

⁽¹⁾ Several representative NGOs claim that personal assistance should therefore become the right of disabled persons, which could be implemented through direct funding: This is a condition for a structural shift in assuring basic human right.

- areas **outside employment** should be addressed in the future, such as education, culture, free time/leisure, etc.;
- relevant attention should be devoted to the impact of **multiple discrimination, cultural differences, poverty**, etc. Appropriate focus on those aspects might throw new light on categories within disabled people, which are now 'invisible';
- adapted working place (including assistive technologies, job coaching), and appointing **equality officers** in companies could stimulate equal opportunities in employment;
- **safety at work** in the light of prevention of disability should get relevant attention.

2. Introduction

2.1 The EESC has received the Communication with great interest ⁽²⁾.

2.2 The European Action Plan (DAP) ⁽³⁾, adopted in 2003 as a multi-annual Action Plan from 2004 to 2010, aims to mainstream disability in all relevant policies of the European Union as well as to develop concrete actions to reinforce the inclusion of people with disabilities in European societies.

2.2.1 The priority of the *first phase* of the DAP was focused on access of disabled people to the labour market, the use of ITC, and accessibility to public buildings.

2.2.2 The priority actions for the *second phase* of the DAP are focused on active participation of disabled people in society, access to quality support, care and health services, fostering accessibility of goods and services and increasing the analysis capacity.

2.3 The DAP foresees a Biennial Report on the situation of people with disabilities to revise the objectives as well as to analyse the situation of people with disabilities in the period of reference.

2.4 The EESC regrets that the Biennial Report has in the final event been transformed into a short Communication instead; the first part of the Communication is the biennial report covering the period 2004-2005, and the second part is the Action Plan for its *second phase* 2006-2007.

2.4.1 The information provided in the annexes of the Communication is of high interest for the evaluation. Nevertheless the EESC regrets that the information provided is limited,

since the analysis does not consider all the initiatives that are taking place in the EU. The states should have provided more information on the questionnaire produced by the European Commission for the report.

2.4.2 The EESC regrets that the information provided in the annexes has not been yet translated into all European Union official languages besides English.

2.5 Disabled people constitute 10 % of the population, a percentage that increases with ageing of our societies. This means that there are more than 50 million disabled people in the enlarged European Union ⁽⁴⁾.

2.6 Disabled people — men and women, boys and girls — represent a diverse, non-homogenous group. This diversity should be taken into account at all levels of policy development.

2.7 The EESC has regularly expressed strong support for the full integration of people with disabilities and has called for a Specific Directive on Disability ⁽⁵⁾.

2.8 It made some specific recommendations in the opinion for the Action Plan 2004-2006 ⁽⁶⁾. The EESC acknowledges that some of the recommendations issued were taken on board, but unfortunately many others were not, in particular the call for a disability Specific directive and the mainstreaming of disability in the *European Employment Strategy*.

2.9 The EESC analyses this Action Plan on the light of the current negotiations of the UN Convention on the rights of disabled people ⁽⁷⁾.

⁽⁴⁾ The Eurostat publication *Employment of disabled people 2002* says that: 'Of those persons aged between 16 and 64 years, 44.6 million — i.e. one in six (15.7 %) — stated that they had a long-standing health problem or disability (LSHPD)'.

⁽⁵⁾ EESC opinion of 14.2.2006 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation, results and overall assessment of the European Year of People with Disabilities 2003. Rapporteur: Mrs Anca (OJ C 88 of 11.4.2006).

EESC opinion of 25.2.2004 on the 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. Rapporteur: Mr Cabra de Luna (OJ C 110 of 30.4.2004).

EESC opinion of 26.3.2003 on the Communication from the Commission to the Council and the European Parliament — Towards a United Nations legally binding instrument to promote and protect the rights and dignity of persons with disabilities. Rapporteur: Mr Cabra de Luna (OJ C 133 of 6.6.2003).

EESC own initiative opinion of 17.7.2002 on the Integration of disabled people in society. Rapporteur Mr Cabra de Luna (OJ C 241 of 7.10.2002).

EESC opinion of 17.10.2001 on the Proposal for a Council Decision on the European Year of People with Disabilities 2003. Rapporteur: Mr Cabra de Luna (OJ C 36 of 8.2.2002).

⁽⁶⁾ EESC opinion of 25.2.2004 on the 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. Rapporteur: Mr Cabra de Luna (OJ C 110 of 30.4.2004).

⁽⁷⁾ International Convention on the Rights of persons with Disabilities. UN New York, 2006 (working text).

⁽²⁾ COM(2003) 650 final.

⁽³⁾ Disability Action Plan (DAP).

3. Current situation

Overview

3.1 The EESC agrees with the importance of the objectives chosen for the *second phase* of DAP.

3.2 The EESC believes that the European Commission should apply the social approach to disability when tackling this issue in different documents of the Commission, which would enable to promote the use of more neutral and inclusive language in the wider area of disability. The translation from English of some of the documents produced by the Commission uses a language which is not fully in accordance with the social approach to disability.

3.3 The EESC shares the concern of the Commission with regard to the lack of relevant statistical data on disabled persons, which is necessary for future policy development in the field. The existing research is now only covering disabled people, who are active/employed, and does not cover the majority of disabled citizens (people who live in institutions, children).

3.4 The EESC is concerned by the fact that there is a gap in employment rate between non-disabled and disabled persons. The Eurostat confirmed in 2003 that 'Labour force participation is indeed much lower for the disabled: 78 % of the severely disabled aged 16-64 are outside of the labour force as compared to 27 % for those without LSHPD. Even among those in the labour force, the unemployment rate is nearly twice as high among the severely disabled as compared to the non-disabled. Only 16 % of those who face work restrictions are provided with some assistance to work' ⁽⁸⁾.

3.5 In some aspects the EESC is inclined not fully to agree with some of the reasons given in the Commission's Report to explain the twice as high inactivity rate among people with disabilities, compared to the rest of population. The argument of s. c. 'benefit traps' ⁽⁹⁾ is an incomplete reason that puts all the responsibility on the part of disabled people.

3.5.1 Behind negative statistics there are more complex obstacles, such as reluctance of employers, un-adjusted working places, unequal access to labour market, lack of assistance for independent living (either by personal assistance or assistive devices), discrimination faced in transport, education, access to goods and services, ICT, and so on. Although 43.7 % of disabled respondents believe that they could work with adequate assistance, in reality only 15.9 % of them actually receive such assistance ⁽¹⁰⁾.

⁽⁸⁾ Statistics in Focus, Theme 3: *Employment of Disabled people in Europe 2002* Eurostat 26/2003.

⁽⁹⁾ Presumably higher social benefit comparing to wages, and risk of losing benefits on starting work.

⁽¹⁰⁾ Statistics in Focus, Theme 3: *Employment of Disabled people in Europe 2002* Eurostat 26/2003.

3.5.2 The EESC consequently believes that any revision of the social security systems as well as employment schemes should take on board the complexity of reasons why a disabled person cannot access and remain in the employment market ⁽¹¹⁾.

3.6 Promoting Employment

3.6.1 The EESC welcomes that the European Commission has taken serious steps to monitor the transposition and implementation of the Employment directive ⁽¹²⁾. The monitoring should be done in cooperation with Social partners and representative NGOs. The EESC is convinced that the Employment directive, which prohibits discrimination in employment on a number of grounds, including disability, is a lawful obligation not merely a right to 'challenge', and that the Commission has a key role as the guardian of the directive in its effective implementation.

3.6.2 The EESC does not share the statement of the European Commission on the visibility of disability in the *European Employment Strategy* (EES) ⁽¹³⁾. The mainstreaming of disability in the EES was quite reduced and this has been the case since this dimension has been forgotten in the National Reform Programmes.

3.6.3 The Committee has already supported the Commission *Regulation on the application of Articles 87 and 88 of the EC treaty to State Aid for Employment* ⁽¹⁴⁾ and the exemptions for the state aid for the inclusion of people with disabilities in the mainstream labour market.

3.6.4 The EESC strongly encourages the social partners to give further steps concerning the employment of people with disabilities. In 2004, the social partners reported about their initiatives undertaken in this area ⁽¹⁵⁾.

3.6.5 The EESC also supports the *European Social Fund* initiatives for integration of disabled people into the labour market. The EQUAL initiative has been very useful to promote equality for people with disabilities. The new framework of the European Social Funds should take into account some principles forgotten in the current legislation such as the principle of accessibility and design for all in the projects funded through the ESF.

⁽¹¹⁾ The 57 % of people with disabilities become disabled during their working lives.

⁽¹²⁾ DIR 2000/78, 27. November 2000.

⁽¹³⁾ Council decision on Guidelines for Employment Policies of the Member States of 12.7.2005. Disability Mainstreaming in the European Employment Strategy. http://europa/comm/dgs/employment_social/index_en.htm.

⁽¹⁴⁾ Commission regulation (EC) 2204/2002.

⁽¹⁵⁾ CEEP, UNICE/UEAPME and ETUC 2004 Report on social partners actions in member States to implement employment guidelines.

3.6.6 The EESC is glad to know that the European Commission has launched a *Community Action Plan Against Discrimination* ⁽¹⁶⁾.

3.6.7 The EESC considers that other initiatives such as the Equality summit and the *European Year of Equal Opportunities 2007* have to be followed by significant political decisions or policies and legislation.

3.6.8 The EESC regrets that disabled people organizations at national level have been generally excluded in the creation of the National Reform Programmes. The reviewed *Lisbon Agenda* should reinforce the participation of civil society to better achieve its objectives.

3.6.9 The EESC believes that the dialogue with civil society — the social partners and relevant NGOs — at both, European and national level — is important to ensure the efficiency of the employment strategies. The involvement of representatives of disability NGOs is of vital importance.

3.7 Integrating disabled people in society

3.7.1 The EESC recently expressed its opinion on the EYPD and invited the European Commission to assess in its future biennial report on the situation of disabled people the follow-up to political commitments made during the European Year, and in particular the follow-up to the Council resolutions on employment, education, *eAccessibility*, and culture, and to provide recommendations for the integration of disability concerns in the open method of coordination within the *Lisbon Strategy* ⁽¹⁷⁾.

3.7.2 The EESC welcomes the best practice of the air passenger's regulation where the benefits of mainstreaming processes are clear.

3.7.3 The Committee welcomes the achievements ⁽¹⁸⁾ in the frame of the accessibility of the ICT for people with disabilities, and its further initiatives ⁽¹⁹⁾. There are other areas where some progress could be done, areas such as telecommunication with a regulatory framework and television broadcasting.

3.7.4 The EESC considers that the *European Structural Funds* are an instrument for the European Union to promote its principles, and should include non-discrimination and accessibility in the legislation and programming of the Funds. Disability should be a cross-cutting issue in the Funds.

3.7.5 The EESC is concerned about the different levels of protection of rights for disabled people in the EU. The scope of

protection and the rights of an individual person depend on the place of their residence.

3.7.6 The Committee is also concerned that some aspects of discrimination of disabled people are being neglected or are not efficiently addressed in the report of the *first phase DAP*, for example: the impact of discrimination towards people with disabilities should be analyzed on numerous grounds such as *gender, racial, ethnic origin, religion or belief, age or sexual orientation* ⁽²⁰⁾; the right of disabled people to independent living.

The EESC considers that disability is not the exclusive determination factor of disabled people and that the other circumstances may also affect and have consequences for their quality of everyday life.

4. The EU Disability Action Plan (DAP) 2006-2007

4.1 The European Commission has adopted a new set of objectives for the *second phase*. The EESC is glad that the objectives continue to address the main problems faced by disabled people.

4.2 EESC does not share the statement that 'mainstreaming of disability has succeeded in some areas, notably employment, ICT and Education'. This is in contradiction with some of the statements of the *Joint Inclusion Reports* where it is recognized that '...against the background of an economic performance which is at best mixed, no significant improvement in the situation. They show clear evidence of the finding in the Lisbon review of an implementation gap between what Member States commit to in common objectives and the policy effort to implement them' ⁽²¹⁾.

4.3 The EESC believes that the EU *High Level Group on Disability* is very important on the implementation of the DAP and should be strengthened; the Group should produce concrete outcomes and recommendations to be adopted by the Council of the European Union.

4.3.1 The EESC strongly supports the inclusion of the European Disability Forum and other specific European impairment organisations in the discussions of the *High Level Group* to ensure the participation of the disability movement in the definition of policies tackling European disabled citizens.

⁽¹⁶⁾ 2000/750/EC: Council Decision of 27 November 2000 establishing a Community action programme to combat discrimination (2001 to 2006).

⁽¹⁷⁾ See footnote 5.

⁽¹⁸⁾ Communication on *eAccessibility* – COM(2005) 425 final of 13.9.2005.

⁽¹⁹⁾ The initiatives to harmonise the accessibility requirements in the ICT domain; Web accessibility Guidelines; European Curriculum on Design for All.

⁽²⁰⁾ Article 13 EC Treaty discrimination grounds.

⁽²¹⁾ Joint Report on Social Protection and Social Inclusion 2006 (COM(2006) 62 final).

4.4 The EESC is glad to know that the European Commission is taking action to open an infringement procedure against the states that have not yet transposed the Directive on Equal Treatment in Employment and Occupation 2000/78 into their national system or have not implemented it properly ⁽²²⁾.

4.5 Priority Areas for the Second phase

4.5.1 The *second phase* of DAP focuses on active inclusion of people with disabilities, and builds on citizens' concept of disability ⁽²³⁾. It means that disabled people have the same individual choices and control in their everyday life as non-disabled people.

4.6 Encouraging activity

4.6.1 The EESC noted in its previous opinion that people with disabilities are not mentioned in the new streamlined *Lisbon Strategy* ⁽²⁴⁾.

4.6.2 The EESC warns that raising employment and activity rates of disabled people is not possible without improving working conditions and combating discrimination in areas such as education, transport, ICT, access to goods and services, and so on.

4.6.3 The EESC considers that the revision of the objectives of the *European Employment Strategy* has to take into account the mainstreaming of disability. If this is not the case the protection of disability will continue to be much reduced.

4.6.4 The *European Structural Funds* will be significantly assist integration if taking the principle of non-discrimination and accessibility for people with disabilities. The new programming period of the Structural Funds has to prevent the creation of newly built environment barriers as well as the promotion of a more inclusive use of Funds.

4.6.5 The new regulation of the *European Commission block exemption on employment and training aids* has to create a fair system to encourage the participation of people with disabilities in the labour market. The new revision should simplify procedures in order to facilitate employers' access to support their disabled employees.

4.6.6 Social economy enterprises can contribute valuably to the integration of people with disabilities into labour market.

⁽²²⁾ Austria, Finland, Germany and Luxemburg.

⁽²³⁾ As reflected in the EU Charter of Fundamental Rights, Art. 26 (The Union recognizes and respects the right persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community).

⁽²⁴⁾ EESC opinion of 14.2.2006 on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the implementation, results and overall assessment of the European Year of People with Disabilities 2003. Rapporteur: Mrs Anca (OJ C 88 of 11.4.2006).

4.7 Promoting access to quality support and care services

4.7.1 EESC agrees with the European Commission on the importance of this issue.

4.7.2 The EESC considers that any action promoting the lives of disabled people in European Societies should be based in fundamental Human Rights such as:

- the right to liberty of movement and freedom to choose his/her residence
- the right to respect for his/her private and family life
- no one shall arbitrarily be deprived of his/her liberty
- no one shall be subjected to torture or to inhuman or degrading treatment or punishment
- the right to education
- the right to health, including the access to information and services on health and reproductive health
- no one shall be deprived of his/her possessions.

4.7.3 Therefore the EESC welcomes the Commission's assurance to support independent living, deinstitutionalization and desegregation of people placed in large residential institutions.

4.7.3.1 The EESC calls on the Commission to ensure that all stakeholders in Independent Living, such as public authorities at national level, organizations representing disabled people and the EU, actively participate in the process.

4.7.3.2 Independent Living is not only about actually *living* in society, but also about being an *equal part* of society. Independent living means full participation in all aspects of society.

4.7.3.3 The EESC considers that any action for the revision of care services should promote independent living for people with disabilities. A specific objective on de-institutionalisation and development of community-based alternatives should be part of the new strategy on long term care, as well as part of the new social protection strategy. The alternatives should include initiatives such as personal assistants, assistive devices, support services, information, coaching, inclusion of disabled people in their own care provision, etc.

4.7.4 The EESC calls for improvement of the standards on the quality of services that are offered for disabled people. These standards should be developed in cooperation with the organizations of disabled people. Any model of support and care services should be based on quality, continuity, accessibility and financial sustainability.

4.7.5 The Open Method of Coordination on Health should also take into account the needs of disabled people and their Fundamental rights in access to services.

4.8 *Fostering accessibility of goods and services*

4.8.1 The EESC welcomes the regulation on air passengers with reduced mobility and initiatives in the wider frame of transport (railway traffic, coaches, and maritime traffic) and tourism, which will enable free movement of people with disabilities.

4.8.2 Access to new technologies is essential to bridge the gap of the digital divide in European societies. The EU has to ensure that projects under the 7th Framework Programme improve the research for new technologies, assistive devices and design for all goods and services.

4.8.3 The EESC believes that, in the current negotiations of the *Directive on Services of the Internal Market*, the needs of disabled consumers should be taken on board when speaking about the access to goods and services in the EU.

4.8.4 The EESC advises the European Commission that the future *Communication on Social Services of General Interest* should take into account the principles of continuity, accessibility and European quality standards as well as financial sustainability.

4.9 *Increasing the EU's analytical capacity*

4.9.1 The European Union must be able to measure the situation of people with disabilities.

4.9.2 The EESC believes that more reliable and comparable data should be produced for people with disabilities. The current EU statistics include analysis based on gender and age. It is of vital importance for the analysis of the status of disabled persons and future policy development that a comprehensive breakdown of statistics be produced at EU level.

4.9.3 Further academic research with special attention to the needs expressed by disabled persons themselves, plus better analysis of multiple discrimination, are needed.

The *European Year for Equal Opportunities 2007* is a unique opportunity for the Commission to take the responsibility for balancing/harmonization of legal protection against discrimination of disabled people across EU and to take steps in cases of violations.

The EESC is looking forward for the next biennial report on DAP in 2008.

Brussels, 20 April 2006.

The President
of the European Economic and Social Committee
Anne-Marie SIGMUND
