

Opinion of the European Economic and Social Committee on ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030’

(COM(2021) 101 final)

(2021/C 374/09)

Rapporteur: **Ioannis VARDAKASTANIS**

Referral	Commission, 26.3.2021
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Employment, Social Affairs and Citizenship
Adopted in section	21.6.2021
Adopted at plenary	7.7.2021
Plenary session No	562
Outcome of vote (for/against/abstentions)	233/0/2

1. Conclusions and recommendations

1.1. The EESC welcomes the new EU Disability Rights Strategy, which has taken on board many of the suggestions proposed by the European disability movement and civil society. It also reflects many of the proposals made in the EESC's opinion from 2019 ⁽¹⁾, works to implement the United Nations Convention on the Rights of Persons with Disabilities (CRPD) at EU level and is a vital part of the Union of Equality. The EESC is, however, concerned with the watering down of the binding measures and hard legislation implementing the Strategy, but acknowledges that the new Strategy is a clear step forward in ambition compared to the Strategy for 2010-2020.

1.2. The commitment to set up a Disability Platform shows great promise, but also has the potential to disappoint if poorly implemented. There must be transparency regarding members, meeting agendas (with the possibility for input on agenda items) and outcomes. The Platform must also ensure that organisations of persons with disabilities have a strong voice. We believe that the EESC has a role to play and must have a seat at the table.

1.3. The link between the Disability Strategy and the significant investments to come under the Recovery and Resilience Facility (RRF) should be made stronger. The link with the implementation and monitoring of the Action Plan for the EU Pillar of Social Rights and particularly of Principle 17 of the Pillar should also be ensured and maximised. The EESC would like to see a clearer and stronger agenda from the European Commission (EC) on how to promote the use of the national RRF in order to help persons with disabilities recover from the pandemic. The EC must address those Member States (MS) which have not been transparent about their plans or followed EC guidelines to ensure meaningful consultation of civil society. The EC must also be resolute about opposing plans that propose investments that go against the CRPD, such as investments in institutional care settings.

1.4. The EESC is pleased to see the proposal for AccessibleEU, although at this stage it falls short of the Committee's request for an EU Access Board to be set up. The EC needs to be clear and transparent about how it plans to fund and staff this agency, and how it will make sure that persons with disabilities are represented; they must be represented internally, as employees and experts and not just externally, as consulted actors.

1.5. The EESC strongly endorses the flagship initiative on the EU Disability Card and considers that it has the potential to foster great change. However, the EESC regrets that there is as yet no commitment on how to ensure that it is recognised by the MS. The Committee stresses the need for the Disability Card to be implemented by means of a regulation which would make it directly applicable and enforceable throughout the EU.

⁽¹⁾ OJ C 97, 24.3.2020, p. 41.

1.6. The EESC supports the plan for a guide on good electoral practice addressing the participation of persons with disabilities in the electoral process, planned for 2023. It also supports the work planned with the MS, the European Cooperation Network on Elections and the European Parliament to guarantee the political rights of persons with disabilities on an equal footing with others. The EESC advises bringing this deliverable forward to ensure that national and local authorities have time to adopt more accessible practices in advance of the 2024 European elections.

1.7. There is a lack of specific actions addressing the needs of women and girls with disabilities. The EESC calls for this to be remedied as far as possible by ensuring that the gender dimension is mainstreamed into all actions already included in the Strategy. This should be approached particularly carefully in actions tackling violence. The focus on women should also be extended to family members providing long-term and informal care to their relatives with disabilities, as women are particularly likely to take on caring roles. After the mid-term review of the Strategy, the EESC would like to see a specific flagship initiative proposed on women with disabilities in the second half of the period of the Strategy.

1.8. The actions dealing with access to justice and persons with disabilities as victims of violence are hugely important. The EESC considers that these actions, particularly those on training of professionals in the justice system and law enforcement officers, must also give guidance on how to ensure that persons with disabilities are not denied access to justice due to legal incapacitation or subjected to delays when seeking justice because of accessibility issues, lack of support in decision-making or a lack of availability of assistance for communication, such as sign language interpretation.

1.9. The proposed guidelines on improvements in independent living and inclusion in the community is a point that the EC needs to address with particular care. The guidelines must be based on very clear definitions of what we understand by institutional care, community-based services and independent living. The EESC recommends that the EC base its definitions on those established and agreed upon by the European Expert Group on the Transition from Institutional to Community-based Care, as well as CRPD General Comment 5 on Article 19.

1.10. The proposed package on improving employment outcomes, as well as the EC's pledge to improve recruitment and inclusion of persons with disabilities in the EU institutions, come as a clear response to calls from civil society. It cannot be stressed enough just how crucial it is to focus on boosting quality employment for persons with disabilities in light of the COVID-19 pandemic⁽²⁾, and in this sense the Strategy could have been bolder. The EESC strongly recommends that work begin on setting out indicators to monitor the implementation of these actions, and that efforts be made to align these measures with those for civil protection and for health and safety at work. As regards employment in the MS, this could be achieved in part by the EC's proposal to include indicators on the disability employment gap in the Social Pillar's new Social Scoreboard, and to include disaggregation around disability in some of the other indicators. The EESC stresses that the aim is not just higher employment rates, but also quality employment that allows persons with disabilities to improve their social position through work. We therefore suggest that the scoreboard contain indicators on the quality of employment of persons with disabilities, such as whether they have full-time and long-term contracts, and whether they are employed in the open labour market. The EC will need to push hard on the targets being set for the MS which stipulate how far they should reduce the disability employment gap by 2030. We want to see ambitious targets that aim to get as close as possible to the elimination of any employment gap, with a focus on employment in the open labour market.

1.11. The Strategy proposes a number of actions on education. The EESC stresses that the action on training for Special Needs Teachers should also focus on training teachers in mainstream education settings to offer inclusive classroom learning. The MS must be encouraged to allocate Special Needs Educators to inclusive settings to allow children with disabilities to receive the specialised support they might need, while being part of a mainstream school attended by learners without disabilities.

⁽²⁾ Disability and labour market integration: Policy trends and support.

1.12. The proposal for an update to the Toolbox on the 'Rights Based Approach, encompassing all human rights for EU development cooperation' is a positive step. This should be done with input from national and local disability organisations based in the countries where these investments are being made.

1.13. The action on supporting MS to implement the 2000 Hague Convention would clash with the CRPD with regard to issues such as forced treatment and coercion. This needs to be addressed with input from disability organisations before the EC takes any further action.

1.14. The EESC is pleased to see a commitment by the EC to lead by example. Proposals such as those on the accessibility of EC buildings need to be strictly enforced and not stray from the timeline for implementation outlined in the Strategy.

1.15. The proposed strategy for data collection is one of the crucial proposals. The EESC underlines the need to ensure more systematic collection of disaggregated data, possibly with the use of the Washington Group's Short Set of Questions.

1.16. A framework to monitor the objectives and actions of the Strategy is expected to be ready by 2021. The EESC, and in particular the EESC Disability Group, is ready to assist the EC in designing it, alongside disability organisations which should be fully and meaningfully involved throughout the process.

1.17. The Strategy states that persons with disabilities should participate fully in the Conference on the Future of Europe. The EESC would like to see the EC deliver on this commitment by including persons with disabilities and their representative organisations in all areas of the Conference, not just those relating specifically to disability.

1.18. The EESC calls on the EC to start preparing for the selection of an EU candidate for the CRPD Committee, and recommends that the candidate be a European woman with a disability.

1.19. The Council of the EU also has an essential role to play in the implementation of the Strategy. The EESC calls on the Council to join the Disability Platform, and to swiftly appoint a disability coordinator as provided for in the Strategy. The disability coordinator in the Council should serve as the CRPD focal point, as suggested to the EU in the Concluding Observations of the CRPD review in 2015.

1.20. The EESC also calls on the disability movement to be proactive and to push for each and every action of this Strategy to deliver on what it promises, and to show solidarity in ensuring the measures also benefit immigrants and refugees with disabilities. The launch of the Disability Rights Strategy is but a starting point. It is not the Strategy itself that will deliver real change for persons with disabilities, but rather the strength of each of its components over the coming decade. Social partners and civil society organisations should fully support the implementation of the new Strategy.

2. General comments

2.1. The EESC is pleased to see that the EU Disability Rights Strategy 2021-2030 is a clear step forward in comparison to the previous Strategy. The EESC also highly commends the EC's consultation process, and the fact that many of the proposals made by the EESC in its opinion ⁽³⁾ made it into the final strategy. This also underlines the Committee's clear ability to shape the outcomes of new EU policies and initiatives.

2.2. The EESC is pleased that the EC has committed to seven flagship proposals with clear objectives and dates for delivery. This level of transparency will greatly facilitate the work of the EESC, civil society and the social partners in preparing their input for these actions.

2.3. Among the flagship proposals, the EESC sees particular potential in the AccessibleEU resource centre. Its success will come down in part to the resources that the EC attributes to it, the expertise of the staff running it, and its ability to bring together experts who can pass on knowledge of real value to the MS.

⁽³⁾ OJ C 97, 24.3.2020, p. 41.

2.4. The EESC is pleased to see the proposal for an EU-wide Disability Card. The difference that this card makes to the lives of persons with disabilities will depend on the rights and entitlements provided by the card when it is launched and on whether steps are taken to ensure that it is enforced in all MS.

2.5. One of the Strategy's strengths is the way it will impact the EC's inner workings and connection with other EU institutions. The EESC particularly welcomes the commitment to an annual exchange between the EC and the EESC. We also consider that the EESC should have a place in the new Disability Platform, alongside organisations of persons with disabilities.

2.6. In some respects the Strategy appears to be a reluctant step forwards. The Strategy takes on many of the proposals from the EESC's opinion ⁽⁴⁾, but the commitment to new legislation is all but absent. Of the five actions referring to hard legislation, four are reviews of existing legislation that are already taking place, and one is a proposal to explore the possibility of legislation 'if appropriate'. The new Strategy favours mechanisms such as guidelines and toolkits which, although able to advance practices in the MS, carry a much greater risk of non-compliance without any recourse for bringing MS before the Court of Justice of the EU.

2.7. In the Strategy, the EC promised to address certain issues through other EU strategies and action plans such as the EU Digital Government Strategy and the Action Plan on Social Economy. The EC does not always provide details on exactly how disability issues will be addressed within these strategies. More details should be provided on precisely how the EC proposes to do this.

2.8. The EESC has concerns regarding the action on supporting MS to implement the 2000 Hague Convention, which would clash with the CRPD on issues such as forced treatment and coercion in medical procedures. This needs to be addressed with input from disability organisations before the EC takes any further action.

2.9. The EESC considers that the Strategy has the potential to achieve real change, but this depends entirely on how well it is implemented and how ambitious the individual actions are. If the EC and the MS are not ambitious in pushing for actions that challenge the status quo, the Strategy could well fall short of the expectations of the more than 100 million persons with disabilities in the EU.

2.10. The EESC calls on the disability movement to be proactive in pushing for the Strategy to deliver on what it promises. It is not the Strategy itself that will deliver real change for persons with disabilities, but rather the strength of each of its components over the coming decade.

3. Accessibility and enjoying EU rights

3.1. Chapters two and three of the Strategy cover actions related to accessibility and enjoying EU rights. The main actions include the following:

3.1.1. A flagship initiative to establish a resource centre called AccessibleEU. It will bring together national authorities responsible for implementing and enforcing accessibility rules and accessibility experts and professionals, share good practices develop tools and standards to facilitate the implementation of EU law. This reflects the EESC's call for a European Access Board. The EC needs to clarify on how this centre will be funded and staffed, and how it will reach out to accessibility experts, persons with experience of accessibility issues and organisations of persons with disabilities.

3.1.2. Establishing a European Disability Card by the end of 2023, to be recognised in all MS. The EESC is pleased to see that this responds directly to the call in its opinion from 2019 ⁽⁵⁾. The success of this initiative will come down to the scope of the entitlements afforded by the card, and to whether all the MS agree to implement it fully. The EESC urges the EC to be ambitious with the Disability Card, taking into account that it will be one of the Strategy's key outputs and a benchmark by which many will measure the Strategy's success.

⁽⁴⁾ OJ C 97, 24.3.2020, p. 41.

⁽⁵⁾ OJ C 97, 24.3.2020, p. 41, OJ C 56, 16.2.2021, p. 36.

3.1.3. Evaluating the application of the Web Accessibility Directive and assessing whether the Directive should be revised. This evaluation is an opportunity to analyse whether this legislation is fit for purpose in an increasingly digital public sector, particularly after COVID-19. The EESC considers that the EC should discontinue the exemption from the scope of the Directive applying to certain websites (e.g. schools, kindergartens and nurseries), as these potential exclusions may have had a negative impact on persons with disabilities who can only access these public services via digital tools. We would also like to see a clearer explanation about what action will be taken in the case of MS which fail to meet the Directive's requirements.

3.1.4. Reviewing a number of existing pieces of legislation, namely the legislative framework related to the energy performance of buildings including its impact on accessibility improvements as a result of renovation requirements; the regulatory framework on passenger rights; the Regulation (EU) No 1315/2013 of the European Parliament and of the Council⁽⁶⁾ on Union Guidelines for the development of the trans-European transport network to strengthen accessibility; and the Urban Mobility Package. While the EESC is disappointed that the EC was not more ambitious in proposing more actions based on hard legislation, it is pleased to see that its call for action on accessibility of the built environment and transport have shaped the Strategy. The EESC urges the EC to be ambitious in its amendments and to advocate bold accessibility measures.

3.1.5. Establishing a guide on good electoral practice addressing the participation of persons with disabilities in the electoral process, and working with MS, the European Cooperation Network on Elections and the European Parliament to guarantee the political rights of persons with disabilities, including the right to stand for election and to receive accessible information. The EC will also address the needs of persons with disabilities in the compendium on e-voting and support inclusive democratic participation. It will be important for the EC to work closely with the European Parliament to ensure that the next EU elections are accessible and that the EU leads by example.

4. Decent quality of life and equal participation

4.1. Chapters four and five of the Strategy cover actions related to quality of life and equality. The main actions include the following:

4.1.1. A flagship initiative on guidelines for independent living for the MS to improve independent living and inclusion in the community. The EESC sees this as a potentially crucial initiative. Its strength will rely on a clear and strict definition of what constitutes institutional care, why it should be avoided, and what is understood by investment in community-based services and independent living. The guidelines must be drawn up with input from persons with disabilities and their representative organisations.

4.1.2. A framework for social services to improve service delivery for persons with disabilities and to enhance the attractiveness of jobs in this area. The EESC considers that this framework must focus not only on how to make the social service sector more attractive in terms of salary and working conditions, but also ensure that service providers receive adequate training on how to provide support that is guided by the choices of services users and takes a person-centred, human rights-based approach.

4.1.3. A new package on labour market outcomes of persons with disabilities. As part of this package, the EC will also seek to ensure rigorous application by the MS of the rights covered by the Employment Equality Directive and will report on the Directive's application in 2021. The EC will also oversee the development of an Action Plan on the Social Economy in 2021, including opportunities related to persons with disabilities and integration into the open labour market. Persons with disabilities face many barriers to accessing employment. The EESC believes that the EC must be clear on which barriers exist and which must be addressed most urgently, as well as how COVID-19 has worsened the situation. We recommend that the design of the package be preceded by research or a survey to ask persons with disabilities, and the organisations of persons with disabilities, what they want to see done. The EESC also believes that the employment package should focus on the ability to access quality employment on the open labour market, including in the social economy and D-WISE employment models, preventing the further exclusion of persons with disabilities, and particularly reaching out to women and young people with disabilities who are looking for work. The aim should not only be to improve employment rates, but to enable persons with disabilities to improve their social status and financial wellbeing through paid work.

⁽⁶⁾ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

4.1.4. A 2022 study on social protection and services for persons with disabilities followed by guidance to support the MS with the reform of social protection, focusing on disability assessment frameworks. The study should focus on social services as the basis for ensuring a dignified life for persons with disabilities as well as the role of families and carers. The guidance should thus underline that services must be able to meet the individual needs of persons with disabilities, be based within the community and not in isolated settings, and be accompanied by adequate disability allowance payments. It is crucial that guidance on social protection reforms address the heightened cost of living for persons with disabilities and urge the MS to be more flexible in allowing people to retain disability allowances regardless of their own income, or that of their spouse or partner. Persons with disabilities should be free to seek employment or live with/marry their partner without being penalised financially.

4.1.5. A training strategy for justice professionals, with a focus on EU disability legislation including the UNCRPD. This will include a study on procedural safeguards for vulnerable adults in criminal proceedings and will assess the need for legislative proposals on support and protection of vulnerable adults in line with the Victims' Rights Strategy. The EC will also provide MS with guidance on access to justice for persons with disabilities in the EU. It will support the MS in boosting the participation of persons with disabilities as professionals in the justice system. The EESC welcomes these proposals that echo recommendations it made in its opinion ⁽⁷⁾. The EESC is also pleased that the EC will ask the Fundamental Rights Agency to examine the situation of persons with disabilities living in institutions in terms of violence, abuse and torture. These actions should also provide guidance on how to ensure that persons with disabilities do not have their right to justice denied or subject to delays because of accessibility issues, lack of legal capacity, lack of assistance for supported decision-making or the absence of communication assistance, such as sign language interpretation. Good practices on supported decision-making should be collected in accordance with Articles 12 and 13 of the CRPD. It might also be beneficial to explore how the MS have implemented the Commission Recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings ⁽⁸⁾.

4.1.6. Several actions in the area of education. These include support for the MS in securing assistive technologies and providing an accessible digital learning environment and content under the Digital Education Action Plan 2021-2027. The EC also proposes a toolkit for inclusion in early childhood education and care, with a specific chapter on children with disabilities. Lastly, the EC will help the MS to further develop teacher education systems to address shortages of teachers in Special Needs Education and enable all education professionals to manage diversity and inclusive education. The EESC is pleased to see the EC acknowledge the role that the EU can play in fostering inclusive education, particularly e-learning as learners with disabilities faced many accessibility issues during the COVID-19 pandemic. The EESC would however like to stress that the action on training for Special Needs Teachers should also focus on training teachers in mainstream education settings on how to offer inclusive classroom learning. The EC should promote mainstream inclusive education and encourage the MS to allocate Special Needs Educators to inclusive education settings. The provision of career guidance for persons with disabilities in education systems should also be invested in and improved.

4.1.7. In the areas of inclusive arts and culture, sport, leisure and recreational activities including tourism, the Strategy will strengthen participation by working on multiple fronts, namely by cooperating with mainstream and disability-specific sports organisations, supporting the creation of art by artists with disabilities and using EU funds to make cultural heritage sites and arts events more accessible to persons with disabilities.

4.1.8. The EESC regrets that the Strategy lacks ambition on the adoption of the Horizontal Non-Discrimination Directive, blocked in the Council for the last decade. There are no real plans to overcome this blockage or propose alternatives should the Council fail to reach an agreement.

4.1.9. The EESC would also have liked to see more attention paid to health-related issues. The Strategy focuses on the Plan for beating cancer, which we welcome, but is very vague on mental health, the accessibility of information related to health and the provision of healthcare to persons with disabilities still living in institutions.

⁽⁷⁾ OJ C 97, 24.3.2020, p. 41.

⁽⁸⁾ OJ C 378, 24.12.2013, p. 8.

5. Promoting the rights of persons with disabilities globally

5.1. Chapter six of the Strategy covers actions related to promoting the rights of persons with disabilities globally. The main actions include the following:

5.1.1. Strengthening EU data collection on persons with disabilities in EU-funded humanitarian aid, for example by promoting the use of the Washington Group's Short Set of Questions. This is an excellent proposal which responds to requests previously made by the EESC. The Committee would like to see disaggregated data collection improved on all fronts, particularly regarding people living in institutions. The EU should also support the implementation of the UNCRPD and promote global ratification.

5.1.2. Updating the Toolbox on the 'Rights Based Approach, encompassing all human rights for EU development cooperation' in 2021. This should be done not only in cooperation with disability organisation in the EU, but also with national and local disability organisations based in the countries where these investments are being made.

5.1.3. Ensuring systematic use of the OECD Development Assistance Committee (DAC) disability marker to track disability inclusive investments for targeted monitoring of EU funding. The EESC is very pleased to see that this suggestion, made in its SOC/616 opinion⁽⁹⁾, has been taken on board.

6. Delivering the strategy and leading by example

6.1. Chapters seven and eight of the Strategy cover actions related to the implementation of the Strategy, and how the EC will change its structure and way of working to achieve this. The main actions include the following:

6.1.1. An annual exchange of views with the EESC. The EESC is pleased to see that its involvement in the implementation of the Strategy will be formalised and looks forward to this ongoing, structured cooperation. It is also pleased to see that the EC will also organise regular high-level meetings with the European Parliament, the Council and the EEAS, involving representative organisations of persons with disabilities.

6.1.2. Establishing the Disability Platform to replace the High-Level Group on Disability. The Platform will support the implementation of the Strategy as well as national disability strategies. It will bring together national CRPD focal points, organisations of persons with disabilities and the EC. It will provide a forum to discuss the UN's assessments of MS' implementation of the CRPD. The EESC has great hopes of this new structure, which promises to be more open and transparent than the High-Level Group.

6.1.3. A renewed Human Resources strategy to boost the recruitment and career perspectives of staff with disabilities, including a 'Diversity and Inclusion Office' to oversee the development and implementation of actions advancing diversity and inclusion across the EC. The EESC sees this as one of the most promising actions within the Strategy and hopes that it will result in real growth of recruitment of persons with disabilities in the EU institutions. The EESC is also happy to note that the EC will update EPSO's targeted communication and outreach strategy, and will strengthen reporting by the managers of all EC services on diversity and reasonable accommodation for staff with disabilities.

6.1.4. Improving the accessibility of all EC audiovisual communications and graphic design services by 2023. The EESC welcomes this action and calls on the EC to work with accessibility experts to ensure the highest possible level of accessibility.

6.1.5. Guaranteeing the accessibility of all newly occupied EC buildings. The EC will also ensure that venues for EC events are accessible and that all EC buildings meet European accessibility standards by 2030. The EESC urges the EC to deliver on this without fail.

6.1.6. Developing a strategy for data collection which will steer the MS and analyse existing data sources and indicators, including for administrative data. The EESC underlines the need to collect disaggregated data, possibly with the use of the Washington Group's Short Set of Questions, as is already alluded to in the Strategy.

⁽⁹⁾ OJ C 97, 24.3.2020, p. 41.

6.1.7. Publishing a framework for monitoring the objectives and actions of this Strategy followed by the development of new disability indicators and the release of a report in 2024 on the Strategy, assessing the state of play and, if necessary, updating its objectives and actions. The EESC, and particularly the EESC Disability Group, is ready to support the EC in designing this framework, alongside disability organisations. The EESC is pleased that a date has been set for the implementation report, timed to enable the EC to correct any shortcomings during the lifespan of the Strategy.

Brussels, 7 July 2021.

The President
of the European Economic and Social Committee
Christa SCHWENG
